

**April 30, 2010**

**Virginia Coastal Zone Management Program  
Semiannual Section B Report on Core Agency Implementation Activities  
For the Period from October 1, 2009 – March 31, 2010**

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## **A. STATE AGENCY MONITORING**

### **1) DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ)**

#### **a) DEQ – Virginia Coastal Zone Management Program**

Virginia CZM Program staff continued to work with our partner agencies to implement the Program over the last 6 months. For a full description of staff activities, please refer to the Section A report for Task 1.

#### **b) DEQ – Water Permitting Programs**

##### *DEQ- Virginia Water Protection Permit (VWPP) Program*

The Virginia Water Protection Permit (VWPP) Program is required for water withdrawals and activities in wetlands and surface waters that may or may not require Clean Water Act section 401 water quality certifications. The following table describes the activity for each of these permits. For the VWPP Program, the column “Permits Reissue Pending / Avg Proc. Days” represents water supply permit permits whose applications are currently being processed for reissuance. The processing days cannot be calculated until the permits are actually reissued.

Compared to the April to September 2009 reporting period, approximately about half as many general permit authorizations were issued during the current reporting period, and the average processing time<sup>(1)</sup> decreased. Any delays were mainly due to untimely applicant response, suspension of the permit process due to inadequate project information or change in project scope or impacts, threatened and endangered species concerns and/or coordination, coordination under the State Program General Permit process, and inadequate mitigation proposals. The number of individual permits issued during the current reporting period was about the same as those issued in the previous reporting period, and the average processing time<sup>(1)</sup> decreased. Any delays were largely due to threatened and endangered species concerns and/or coordination, incomplete applications, suspension of the permit process due to inadequate project information, and hearings/State Water Control Board meetings required.

About the same number of permits and permit authorizations were modified during this reporting period, and the average time to process these requests continued to be in line with program guidelines for issuance actions (no regulatory time line for processing changes to general permit authorizations or individual permits).

Four individual permits were reissued during the current reporting period. General permit authorizations are not reissued in the VWPP program.

No applications were denied a permit during the current reporting period.

The VWPP program staff conduct inspections on a variety of sites and for a variety of reasons. Inspection data is available from the DEQ Quarterly and Annual reporting made to the

Administration division, and is also provided to the Virginia Department of Accounts on a fiscal year basis. This data can be provided if necessary for the purposes of this report.

*DEQ-Virginia Pollution Discharge Elimination System (VPDES) Water Permitting Program*

There are a total of 264 individual municipal and industrial CZM area VPDES permits. This number and the numbers in the table above represent typical activity in the program (i.e. there is no particular reason for increases or decreases in numbers from the last reporting period). There are also numerous facilities registered under general permits in CZM areas including 15 car wash facilities, 73 concrete products facilities, 7 cooling water discharges, 80 single family homes, 20 nonmetallic mineral mining facilities, 3 petroleum and hydrostatic testing discharges, 58 seafood processors, 301 industrial storm water discharges and 1 coin operated laundry. Industrial storm water permits are currently under reissuance; therefore the numbers do not reflect the expired industrial storm water general permits. Others represent typical numbers for general permit registrants in CZM areas in Virginia.

*DEQ – VPA Water Permitting Program*

The Virginia Pollution Abatement permit (VPA) is required for facilities that handle wastewater, animal waste or biosolids, and do not have a discharge from the site. For example, an agricultural facility that temporarily stores wastewater to be land applied as part of an irrigation/fertilization program. On January 1, 2008, the Biosolids Use Regulation was transferred to DEQ and incorporated into the VPA Regulation. During the period between October 1, 2009 and March 31, 2010, seven VPA Individual permits were issued in the Coastal Zone Management area authorizing the land application of biosolids. In addition, four VPA permit applications have been received, including one to modify a biosolids permit and one to reissue a VPA AFO Permit. No VPA Individual permits were reissued during this period. There was one modification of VPA Individual biosolids permit. During this reporting period, one poultry operation obtained coverage under the VPA General Permit for Poultry Waste Management and no applications were received.

VPDES/VPA/VWP - October 1, 2009 – March 31, 2010*										
	Permits Issued / Avg Proc. Days		Permits Reissued / Avg Proc. Days		Permits Modified / Avg Proc. Days		Denied / Avg Proc. Days		Permits Reissue Pending / Avg Proc. Days	
VPDES	0	NA	17	294	5	99	0	NA	22**	NA
VPA	7	381	0	NA	1	54	0	NA	1	85
VWP IPs	13	144	4	181 <sup>(2)</sup>	9	32	0	N/A	0	N/A
VWP GPs	66	37	0	N/A	23	26	0	N/A	0	N/A

<sup>(1)</sup> Processing day is the amount of time between receiving a complete application and making the final case decision (issuance, reissuance, modification, etc.)

<sup>(2)</sup> One reissuance was not factored into the average processing time due to compliance issues that spanned several years.

\* Information from CEDS database

\*\* This represents existing VPDES individual permits expired but pending through March 31, 2010

### c) DEQ – Water Program Enforcement and Compliance

DEQ continues to apply both informal and formal enforcement measures in the enforcement program. Reference Table 1, below.

Informal measures, such as Warning Letters and Letters of Agreement, are used in those cases where non-compliance is not significant in nature and where compliance can be achieved in a short period of time. For the period October 1, 2009, through March 31, 2010, DEQ issued 271 Warning Letters and six (6) Letters of Agreement for violations of VPDES, VPA, VWPP, and Ground Water program requirements.

Formal enforcement actions are used in those cases where non-compliance is more serious or may take a significant amount of time to correct. Formal measures generally involve the issuance of a Notice of Violation followed by a Consent Order, or an Executive Compliance Agreement in the case of a state agency. In some cases, Unilateral Administrative Orders or court orders may be sought. Between October 2009 and March 2010, DEQ issued 60 Notices of Violation for violations of VPDES, VPA, VWPP, and Ground Water program requirements. During the same period, the agency concluded enforcement cases with the issuance of 16 Consent Orders that assessed a total of \$283,490 in civil charges. Two VPDES consent orders included Supplemental Environmental Projects (SEPs). The first case, for which a civil charge of \$12,155 was imposed, specified that the responsible party satisfy \$9,116 of the civil charge by satisfactorily completing a SEP; the SEP to be performed was the installation of a bio-retention area at the company's facility. The second VPDES order, which identified a civil charge of \$3,900, described the SEP to be performed as a donation of \$3,510 to the Peanut Soil and Water Conservation District for use on an agricultural field in the Southern Rivers Watershed.

Furthermore, in a federal action brought forth in the United States District Court for the Eastern District of Virginia, an Amended Consent Decree entered in February 2010 ordered a large multijurisdictional sanitary district to pay the Commonwealth of Virginia \$450,000 as a civil penalty related to violations of requirements for operation of sanitary sewer systems and sewage treatment plants and to perform corrective action to address sanitary sewer overflows and bypasses within the systems.

**Table 1**

<i>Subtotal</i>		353	\$283,490
<b>Measure</b>	<b>Action Type</b>	<b>Count</b>	<b>Total Civil Charges Assessed</b>
Formal	Federal Decree (Civil penalty)		\$450,000
<b>Total Penalties</b>			<b>\$733,490</b>
Informal	Warning Letters	271	n/a
Informal	Letters of Agreement	6	n/a
Formal	Notices of Violation	60	n/a
Formal	Consent Order	16	\$283,490

#### d) DEQ – Air Permitting Program

### OFFICE OF AIR PERMIT PROGRAMS PERMITS ISSUED REPORT

Period: **October 1, 2009 – March 31, 2010**

PERMIT TYPE	NUMBER OF PERMITS ISSUED	AVERAGE PROCESSI NG TIME (Days)
PSD & NA	1	35
Major	0	NA
Minor	47	50
Administrative Amendment	9	29
Exemptions	102	48
State Operating	7	74
Federal Operating (Title V)	4	1227
Acid Rain (Title IV)	1	251
Total Number Permits Issued	<b><u>171</u></b>	

\* The average processing time is determined by computing the difference between when the application was deemed administratively complete and when the permit was issued.

Note: The information provided for this report includes data from the Fredericksburg Satellite Office, Northern Virginia Regional Office, Piedmont Regional Office and Tidewater Regional Office only.

#### Definitions:

Prevention of Significant Deterioration (PSD) = A source which emits **250 tons or more** per year of any regulated pollutant or combination of regulated pollutants, or who is one of 28 specific industries listed in the state regulations and will emit 100 tons per year of a regulated pollutant.

Major = A source which emits, or has the potential to emit, **100 tons or more** per year of any air pollutant.

Minor = A source which emits, or has the potential to emit, **less than 100 tons** per year of any air pollutant.

State Operating= Application for permit written pursuant to 9 VAC 5-80-800.

Administrative Consent Agreement = An agreement that the owner or any other person

will perform specific actions to diminish or abate the causes of air pollution for the purpose of coming into compliance with regulations, by mutual agreement of the owner or any other person and the Board.

Administrative Amendment = Changes made to the permit to clarify or correct an issued permit. For example, equipment references, improved control equipment, reductions of allowed emissions below the exemption levels, etc.

Exemption = Facilities meeting are exempted from permitting requirements by exemption levels defined in 9 VAC 5-80-11.

Federal Operating (Title V) = a source that emits **10 tons or more** per year of any hazardous air pollutant, **or 25 tons** per year of any combination of hazardous air pollutants or emits criteria pollutants above major source levels.

Acid Rain (Title IV) = tightens the annual emissions limits for SO<sub>2</sub> and NO<sub>x</sub> which are imposed on large higher emitting electric utility plants and sets restrictions on smaller, cleaner plants fired by coal, oil, and gas.

### OFFICE OF AIR PERMIT PROGRAMS PERMITS PENDING REPORT

Permits pending as of **March 31, 2010**

PERMIT TYPE	NUMBER OF PERMITS PENDING
PSD & NA	1
Major	0
Minor	51
Administrative Amendment	2
Exemptions	23
State Operating	11
Federal Operating (Title V)	5
Acid Rain (Title IV)	1
Total Permits Pending	<b><u>94</u></b>

Note: The information provided for this report includes data from the Fredericksburg Satellite Office, Northern Virginia Regional Office, Piedmont Regional Office and Tidewater Regional Office only.

**OFFICE OF AIR PERMIT PROGRAMS  
PERMITS WITHDRAWN AND APPLICATIONS DENIED REPORT**

Period: **October 1, 2009 – March 31, 2010**

PERMIT TYPE	NUMBER OF PERMITS WITHDRAWN	NUMBER OF APPLICATIONS DENIED
PSD	0	0
Major	0	0
Minor	8	0
Administrative Amendment	0	0
Exemptions	1	0
State Operating	0	0
Federal Operating (Title V)	0	0
Acid Rain (Title IV)	0	0
Total Permits Rescinded	<b><u>9</u></b>	<b><u>0</u></b>

Note: The information provided for this report includes data from the Fredericksburg Satellite Office, Northern Virginia Regional Office, Piedmont Regional Office and Tidewater Regional Office only.

**e) DEQ – Air Program Enforcement and Compliance**

DEQ continues to apply both informal and formal enforcement measures in its air enforcement program. Reference Table 2, below.

Informal measures include Requests for Corrective Action, Informal Correction Letters, Warning Letters, and Letters of Agreement. These actions are used in those cases where non-compliance is not significant in nature and where compliance can be achieved in a short period of time. During the six-month period beginning October 1, 2009, and ending March 31, 2010, DEQ issued one (1) Letter of Agreement, 50 Requests for Corrective Action, and 76 Warning Letters.

Formal enforcement actions are used in those cases where non-compliance is more serious or may take a significant amount of time to correct. Formal measures generally involve the issuance of a Notice of Violation and negotiation of a Consent Order, or an Executive Compliance Agreement in the case of a state agency. In some cases, Unilateral Orders or court orders may be pursued. Between October 1, 2009, and March 31, 2010, DEQ initiated seven (7) new formal enforcement actions via issuance of Notices of Violation. In addition, the agency issued six (6) Consent Orders; these orders assessed a total of \$116,056 in civil charges. One of the six orders was a multimedia case that addressed violations in Stage I and II vapor recovery systems. Additionally,

one Air consent order specified that \$18,200 of a \$26,000 civil charge be satisfied by installing an air-cooled scroll chiller unit to increase efficiency of the company's HVAC system. In a federal multi-state joint lawsuit with EPA entered in October 2009, the responsible party was ordered to pay a civil penalty of \$162,045 to the Commonwealth of Virginia; although, since the company filed for bankruptcy, payment has yet to be determined.

**Table 2**

<b>Measure</b>	<b>Action Type</b>	<b>Count</b>	<b>Total Civil Charges Assessed</b>
Informal	Letter of Agreement	1	n/a
Informal	Request for Corrective Action	50	n/a
Informal	Warning Letter	76	n/a
Formal	Notice of Violation	7	n/a
Formal	Consent Order	6	\$116,056
<b>Total</b>		<b>140</b>	<b>\$116,056</b>

## **2) VIRGINIA MARINE RESOURCES COMMISSION (VMRC)**

### **a) VMRC – Habitat Management Division**

During the period October 1, 2009 through March 31, 2010 the Habitat Management Division received 908 applications for projects involving State-owned submerged lands, wetlands or dunes. These applications were for projects such as piers, boathouses, boat ramps, marinas, dredging and shoreline stabilization. As the clearinghouse for the Joint Permit Application all applications were assigned a processing number by the Division and forwarded to the appropriate agencies, including, local wetlands boards, the Norfolk District of the U.S. Army Corps of Engineers, the Department of Environmental Quality, VIMS and others as necessary.

A public interest review was initiated and site inspections were conducted for those projects requiring a permit from the Marine Resources Commission. Likewise, Habitat Management staff also conducted site inspections for all projects requiring a local wetlands board permit and evaluated each local board decision for Commissioner review. Habitat Management staff also conducted compliance inspections on permits issued by VMRC and local wetlands boards. Five sworn complaints were issued during the period.

The Habitat Management Staff completed actions on 895 applications received during the period. Action on most applications was completed within 90 days after they were received. As such, a number of the actions taken during the period were for applications received prior to October 2009. Similarly, those applications received near the end of the current reporting period are still under review. Habitat Management Staff also issued general permits for Virginia Department of Transportation projects.

In addition to staff actions, the Full Commission considered 90 projects. During the reporting period the Commission considered 32 protested projects or projects requiring a staff briefing, including two appeals of a local wetlands board decision. The Commission also approved 58 projects over \$50,000.00 in value for which staff had completed the public interest review and for which there was no objection.



## **b) VMRC – Fisheries Management Division**

At its October 2009 meeting, the Virginia Marine Resources Commission (VMRC) incorporated the black sea bass hardship quota holders into the black sea bass directed fishery, beginning in 2010. This was done to equitably distribute shares of sea bass quota, according to the original design of this limited entry program.

At its November 2009 meeting, the VMRC lowered the commercial flounder trip limits for 2009/2010 fall and winter season from 10,000 pounds to 7,500 pounds per trip, in response to industry requests that indicated smaller off-loadings of summer flounder, per trip, would extend the fishing period and be economically advantageous.

Also at this meeting, the VMRC lowered the commercial striped bass bay-wide quota from 3,284,484 pounds to 3,076,044 pounds for 2010, using results from the annual predictive model.

At its December 2009 meeting, the VMRC added additional measures to the horseshoe crab regulation, in response to a quota overage. Additional measures included decreasing the landing limit triggers, creating a bycatch permit, reducing landing limits specific to areas east of the COLREGS line, requiring horseshoe crab buyers to report weekly, and reducing the 2010 quota from 152,495 to 137,168 horseshoe crabs to pay back the 2009 overage.

At its February 2010 meeting, the VMRC lowered the size limit for the recreational summer flounder fishery from 19 inches to 18.5 inches. It also reduced the possession limit for the recreational summer flounder fishery from 5 fish to 4 fish. As part of the interstate management plan, this overall liberalization was possible because the Virginia 2009 recreational summer flounder landings were 73% below the target landings for 2009. The VMRC also adjusted the commercial summer flounder bycatch limits to make it unlawful to possess more summer flounder than 10%, by weight, of the Atlantic croaker on board or 10% of the combined catch of black sea bass, scup, squid, and Atlantic mackerel. The VMRC also made it unlawful to possess greater than 1,500 pounds of summer flounder, when caught in combination with Atlantic croaker, and unlawful to fail to sell the entire harvest at time of landing.

Also at its February 2010 meeting, the VMRC required that smooth dogfish be landed with head, tail, and fins attached, to comply with the Atlantic State Marine Fisheries Commission's Fisheries Management Plan. The VMRC also reduced the commercial harvest limit of grey trout to 100 pounds per vessel, per trip and reduced the grey trout recreational possession limit from 6 fish to 1 fish. These changes were in response to coast-wide limitations established by the ASMFC (Atlantic States Marine Fisheries Commission). At that meeting, the VMRC also approved the American shad bycatch fishery, for 2010, and this year will be the 5<sup>th</sup> year that the ASMFC has endorsed this modest by-catch allowance.

Also at its February 2010 meeting, the VMRC increased the commercial black sea bass and summer period scup quotas, in response to changes announced by the ASMFC. The 2010 commercial black sea bass quota was set at 351,722, and the 2010 summer period scup quota was raised from 4,887 pounds to 6,861 pounds. The VMRC added a split recreational season for black sea bass, open from May 22 through August 8, and from September 4 through October 4, in response to quota overages from 2009; however, this may change by future ASMFC action.

At its March 2010 meeting, the VMRC changed the commercial tautog closed season from April 16 through October 2 and December 1 through December 15, to May 1 through November 12, in response to industry request but in conformity with the interstate plan for this species.

### c) VMRC – Law Enforcement Division

Enforcement under "Other Agency" refers to summons issued for other agencies' laws, code or regulation sections. The majority of the summons in this category are for DGIF regulations on boating safety laws, expired boat registration, no life jackets, flares, etc.

Summons under "Police Powers" are all criminal vs fisheries. These are the reckless driving, drunk driving, driving without a license/ suspended license, possession of cocaine, marijuana, etc. We also have an officer assigned to the FBI Task Force in an effort to apprehend organized crime in Virginia.

#### VIRGINIA MARINE POLICE ARRESTS/CONVICTIONS SUMMARY BY CATEGORY

REPORT FORMAT: FEDERAL FISCAL YEAR AREA: ALL AREAS  
START PERIOD: 10/01/2005  
END PERIOD: 09/30/2010



Category	2005/2006		2006/2007		2007/2008		2008/2009		2009/2010	
	Convictions	Arrests	Convictions	Arrests	Convictions	Arrests	Convictions	Arrests	Convictions	Arrests
Buyers	2	2	4	5	10	11	1	1	1	1
Casting Garbage/Trash	1	2	1	1	0	0	0	0	0	0
Clams	4	5	4	4	0	1	1	1	0	0
Commercial Fishing License	13	14	16	21	16	25	6	9	1	1
Conchs	4	6	0	0	9	9	7	7	1	1
Crabs	81	89	69	81	138	172	93	111	7	7
Federal Violation	0	0	94	97	0	6	0	18	0	3
Fish	284	304	297	364	271	319	159	203	21	28
Freshwater Fishing without a license	28	28	12	13	1	1	10	10	4	4
Habitat/Wetlands	0	0	2	2	0	0	0	0	0	0
License Tags	4	9	7	8	3	3	1	2	0	0
Mandatory Reporting	1	1	4	8	0	0	0	0	0	0
Misc	1	1	2	2	1	1	0	0	0	0
Non-residents	0	0	0	0	0	1	0	0	0	0
NSSP	0	0	0	0	3	3	0	0	0	0
Other Agencies	670	729	592	624	435	481	277	319	25	27
Oysters	80	82	56	68	54	72	30	38	25	36
Piers	0	0	0	0	0	0	0	0	0	0
Police Powers	61	69	90	107	61	68	42	52	6	10
Removal of Obstructions	5	6	6	7	4	4	1	1	0	0
Resisting officer	0	1	1	4	2	3	0	0	0	0
Shellfish	0	0	0	0	0	0	1	2	0	0
SW Recreational Licenses	419	435	481	496	309	331	174	195	11	13
<b>TOTALS:</b>	<b>1658</b>	<b>1783</b>	<b>1738</b>	<b>1912</b>	<b>1317</b>	<b>1511</b>	<b>803</b>	<b>969</b>	<b>102</b>	<b>131</b>
<b>PERCENT OF CONVICTIONS:</b>	<b>92.99%</b>		<b>90.90%</b>		<b>87.16%</b>		<b>82.87%</b>		<b>77.86%</b>	

Print Date: Wednesday April 7, 2010

### 3) VIRGINIA DEPARTMENT OF HEALTH (VDH) – DIVISION OF SHORELINE SANITATION

From October 1, 2009 through March 31, 2010, the VDH shellfish program had 344 acres of shellfish grounds closed to harvesting. There were 2401 acres of shellfish grounds reopened.

The Department received and reviewed a total of 34 VMRC Permit Applications, and processed as follows:

Twelve (12) of the Permit Applications needed action in the Marina Program.

Eighteen (18) applications were approved based on meeting the requirements of providing adequate facilities.

Four (4) applications were denied because of inadequate facilities.

#### **4) Department of Conservation and Recreation (DCR)**

##### **a) DCR - Division of Soil and Water Conservation**

The Department of Conservation and Recreation (DCR), Division of Soil and Water Conservation (DSWC) administers numerous enforceable and non-enforceable programs that help the Commonwealth of Virginia manage its coastal resources. The following is a summary of key program activities conducted by DCR staff during the period of October 1, 2009 through March 31, 2010.

##### **Regulatory Programs**

##### **Stormwater Management Program**

The consolidation of the Virginia's stormwater management programs into DCR streamlines program implementation, increases program efficiencies and compliance, builds on successful online initiatives, and improves water quality. During the past six month period, staff assigned to the field within Tidewater localities provided services that include review of erosion and sediment control (ESC) and stormwater management plans, on site inspections, complaint response, enforcement support, and technical/regulatory training via the classroom and Internet.

DCR staff has been working with eleven large/medium (Phase I) Municipal Separate Storm Sewer Systems (MS4s), during the past six months, to develop and reissue the individual permit for the storm sewer systems. The eleven localities are the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth and Virginia Beach and the counties of Arlington, Chesterfield, Fairfax, Henrico, and Prince William. In addition, DCR staff has been working with the 89 MS4 General Permit coverages, which represent 114 small (Phase II) MS4s, to review local programs and provide technical advice on program implementation.

DCR staff is responsible for processing registration statements for land-disturbing activities that are covered by the General Permit for Discharges of Stormwater from Construction Activities. For the reporting period, approximately 833 land disturbing activities were issued General Permit coverage. During this time period, DCR staff also completed approximately 275 site inspections for compliance with the General Permit.

Urban Program staff continued to educate government officials, private contractors, and consultants in the essential elements of Erosion and Sediment Control (ESC) via classroom training and the online "Responsible Land Disturber (RLD) Certificate of Competence" Program. Approximately 342 people completed classroom training and approximately 899 people were certified or recertified for the RLD Program. In addition, approximately 350 individuals were certified/recertified through the examination process as Inspectors, Plan Reviewers, Program Administrators and Combined Administrators.

##### **Nutrient Management**

DCR Nutrient Management Staff have been active in developing and reviewing nutrient management plans and other nutrient reduction activities to achieve the Commonwealth's nutrient reduction commitments of Chesapeake Bay tributary strategies. In the coastal zone of Virginia, DCR staff developed nutrient management plans covering 103,799 acres during the reporting period. The plan acreage developed by coastal watershed is summarized in the following table:

## **Nutrient Management Plans Completed**

Basin	Crop	Hay	Pasture	Specialty	Total
Albemarle Sound	159	0	0	0	159
Atlantic Ocean	1,115	0	0	20	1,135
Chesapeake Bay	13,610	96	23	34	13,762
Coastal					
Chowan	4,118	266	27	0	4,412
James	9,502	511	4	0	10,016
Potomac	14,402	1,029	167	316	15,914
Rappahannock	27,346	550	185	169	28,250
York	28,025	1,341	605	180	30,151
Total	98,277	3,793	1,010	719	103,799

In addition to developing site specific nutrient management plans for farmers, the department reviews all permit applications for proposed biosolids application sites to check for consistency with nutrient management criteria and address site features. Nutrient management plans are now required on all biosolids application sites in Virginia prior to land application of the biosolids.

In the coastal zone areas, 415 nutrient management plans were written covering 103,799 acres. Twelve biosolids plans were reviewed and completed on 1,100 acres. Nutrient management plans for VPA permits were reviewed and approved on 20 farms covering 5,020 acres. Two poultry industries were visited to update them on the progress being made on phosphorous reduction in feed. Both have reached their 30 percent reduction goals. Urban nutrient management plans were developed for 7 localities and 3 NMP's were reviewed on state-owned lands for 183 acres.

### **Non-Regulatory Programs**

#### **Coastal Nonpoint Source Program**

The responsibility of the Coastal NPS Program Manager is to coordinate the Coastal Nonpoint Source Program implementation and administration of grants and grant budgets and provide technical support to Division of Soil and Water, VDCR relating to coastal zone ecology, management, and restoration. The position continues to serve as a liaison between DCR the Center for Environmental Studies at VCU and the VA Coastal Management Program to promote joint, applied research and outreach projects, coastal nonpoint source pollution, coastal zone ecology, management, and restoration.

For the grant reporting period, the Environmental Analyst at the Virginia Commonwealth University continued to serve as the Coastal NPS Program Manager and implement the Coastal NPS Program at the Virginia Department of Conservation and Recreation. The focus of the Coastal NPS Program is the continued expansion of the role and services of the Virginia Network for Education of Municipal Officials (VNEMO) in the Coastal Zone.

The Coastal NPS Program Manager continued to implement the VNEMO Program to support the Sustainable Community Planning Focal Area Projects, integrate the Chesapeake Bay TMDL Watershed Implementation Plan for local government process, continue to expand the VNEMO Program with new partnerships such as the LGAC Circuit Rider, implement the National Fish and Wildlife Foundation Grant at the Science Museum of

Virginia, develop climate change materials for the NEMO Program, assist local governments (such as Richmond County and Charles City County) with achieving their long range resource protection goals, brought together partners to develop another National Fish and Wildlife Foundation grant application and participated in the implementation of a training for local government on climate change adaptation planning.

VNEMO, in coordination with Chesapeake NEMO, has continued a strong role with the implementation of the project in coordinating specific roles and responsibilities within the program delivery and context of the Shoreline Project, under the guidance of the NVRC, the VNEMO client. VNEMO provided a Program partner to assist in the economic analysis portion of the project. The VNEMO program also assisted in the development of the outline that guides the facilitation process for the meetings and directly assisted in the facilitation of public meetings. VNEMO secured the participation of the NOAA CSC to provide assistance in the shoreline resident sea level rise survey design and analysis.

The Coastal NPS Program Manager was requested by VDCR to implement a training program to improve the capacity of the field staff in implementing outcome based technical assistance for local governments, following the model of the VNEMO Program. This initiative is intended to prepare the VDCR staff for the likely increases in requests for technical assistance from local government when the CBTMDL and VA SWM Regulations are implemented. The CNP Program Manager began participating in the development of the local government engagement strategy of the CB TMDL including the development of communication and outreach materials. VDCR envisions the implementation and delivery of technical assistance to follow the same local government engagement approach used by the NEMO team that is based upon capacity building and multiple partner advancement.

The CNP Program Manager began the implementation of the \$1.7M, NFWF funded, project at the Virginia Science Museum. The Manager is sharing the Project Management role with the Director of Science at the Museum. Project leadership outlined the overall project and identified teams to begin the preparation of engineering designs, monitoring program design and educational and outreach materials. The project will implement a rainwater harvesting system, green roof, porous pavement, bioretention facilities and tree well filters.

The VNEMO Program directly assisted both Charles City and Richmond Counties with their Comprehensive Planning efforts. Charles City County requested assistance with the identification of urban growth areas and Richmond County has been in the process of a Comprehensive Plan revision. The VNEMO Program led the Richmond County public meetings on the Economy and forming public policy as well as the public, community visioning session. The VNEMO Program directly assisted the local staff to continue to build their capacity. Charles City County's request to develop alternative scenarios of their urban development areas is being addressed by the VCU GIS department. VCU is conducting the buildout analyses for the County.

The CNP Program Manager partnered with the MPPDC to develop a NFWF proposal to implement a nutrient management strategy based upon a working waterfront model. This project proposed utilizing oyster cultivation as a working waterfront economic driver and as a nutrient management strategy as part of the CBTMDL Watershed Implementation Plan process. This pilot project could demonstrate a low cost alternative to the ground BMPs to address nutrient loading. Partners include: VCU, Virginia Tech, Rappahannock River Oyster Company and MPPDC.

The CNP Program Manager partnered with the Chesapeake NEMO, Maryland Chesapeake and Coastal Program, NOAA OCRM and others to develop a Pre-Forum workshop on Climate Change Adaptation Planning that was held prior to the Chesapeake Watershed Forum in Shepherdstown, WVA, in October 2009. The CNP Program Manager provided an overview presentation of various US case studies presenting local government responses to climate change as well as an introduction to climate change adaptation planning. Participants were

from local government. Also at the Chesapeake Watershed Forum, the CNP Program Manager will present the draft NEMO Presentation on Climate Change Adaptation.

## **b) DCR – Division of Natural Heritage**

This report lists projects and activities conducted by the Department of Conservation and Recreation, Division of Natural Heritage (DCR-NH) during this period that were not funded by or otherwise reported to the VCZMP.

### **Natural Areas Protection**

#### **There is a new Important Bird Area (IBA) in Virginia: the "Central Piedmont IBA"-10/09**

This new IBA will join the Culpepper Basin IBA as the second IBA for the piedmont, a region often overlooked for its avifaunal diversity. The Central Piedmont IBA includes a variety of avian habitat types, from forests to grasslands and other early successional habitats. Thus, this new IBA focuses on a cross section of bird species populations, from interior forest-breeding migratory songbirds (Louisiana Waterthrush, Wood Thrush), to species in the meadow/prairies guild (Field Sparrow, Eastern Meadowlark, Northern Bobwhite), many of which are known to be declining. The new IBA was based first on bird censusing datasets from Audubon and locations of known protected lands, tracked in the DCR-Conservation Lands database. This area was further refined to capture biologically meaningful aspects of the central piedmont landscape using the DCR-Division of Natural Heritage, Virginia Natural Landscape Assessment (VaNLA). Specifically, landscape cores and natural landscape blocks from the VaNLA were used to delineate the final boundary of the Central Piedmont IBA. While this IBA will undoubtedly help to focus conservation efforts on the incredible diversity of birds in the Virginia Piedmont, it also displays another way that tools like the VaNLA can be used for both local and regional conservation planning.

#### **DCR joins national system of Marine Protected Areas-12/09**

Savage Neck Dunes, Bethel Beach, Dameron Marsh and Hughlett Point Natural Area Preserves, as well as False Cape and Kiptopeke State Parks have been designated as Marine Protected Areas (MPA) by the National Oceanic and Atmospheric Administration and the Department of the Interior. DCR's four natural areas and two parks join the total of 225 MPAs designated across the US and its territories. Other MPAs include Assateague Island National Seashore and Back Bay National Wildlife Refuge in Virginia as well as Dry Tortugas National Park (Florida), Virgin Islands Coral Reef National Monument (US Virgin Islands), Yukon Delta National Wildlife Refuge (Alaska) and Aua (American Samoa). The National Oceanic and Atmospheric Administration established the national system of MPAs to "support the effective stewardship, conservation, restoration, sustainable use, and public understanding and appreciation of the nation's significant natural and cultural marine heritage and sustainable production marine resources, with due consideration of the interests of and implications for all who use, benefit from, and care about our marine environment"

## **Eastern Shore Land Conservation Partners Meeting and Land Conservation Award- 02/10**

DCR Natural Heritage staff attended a meeting of the Southern Tip of the Eastern Shore Land Conservation Partners. Extending the partnerships scope to include all of the Eastern Shore was discussed, along with specific land conservation targets and habitat restoration projects.

## **Natural Area Preserve funding award- 02/10**

DCR Natural Heritage staff were notified this week by EPA and Appalachian Electric Power that DCR's proposal for \$1.5M dollars to purchase a 92 acre tract of globally significant migratory songbird habitat on the bayside of the Eastern Shore has been approved.

## **Grafton Ponds Natural Area Preserve Route 105 widening- 02/10**

The U.S. Army Corps of Engineers called a meeting with staff from the Department of Conservation and Recreation, the City of Newport News and the Virginia Department of Transportation to discuss the Route 105 widening project in Newport News. The ACOE general permit for the road widening project contained a special permit condition that there be a 30 foot setback/buffer between the boundary of the Grafton Ponds Natural Area Preserve and Route 105 construction. Flagging placed at the construction site seemed to indicate confusion over the location of the preserve boundary and the location of the 30 foot setback. Interpretation of the preserve boundary in relation to the Route 105 right-of-way provided by the Office of the Attorney General in 2003 and other DCR correspondence on this project is being provided to the ACOE.

## **\$1.5 million Awarded to DCR's Natural Heritage Land Conservation-02/10**

DCR's Natural Heritage staff applied for and have been awarded a \$1.5 million dollar regionally competitive land conservation award. The award is part of an EPA settlement with Appalachian Electric Power that targets a nitrogen reduction land conservation effort in the Chesapeake Bay watershed. DCR submitted for consideration a 92 acre project that supports globally significant migratory songbird habitat on the bayside of the Eastern Shore, and will be an addition to an existing DCR Natural Area Preserve. The landowner is very interested in working with DCR, and the project is a top priority of the Eastern Shore of Virginia Southern Tip Partnership, a 2009 Governor's Environmental Excellence Award winner. DCR is initiating the land acquisition process with the request to DGS to initiate the appraisal process.

## **Prescribed Burning**

### **First Prescribed Restoration Burn for Native Virginia Longleaf Pine-03/10**

DCR Natural Heritage staff, assisted by two Great Dismal Swamp NWRefuge staff and equipment, conducted the first prescribed burn of a native Virginia longleaf pine restoration planting. 40,000 containerized seedlings, grown from local Virginia source seeds collected by DCR and Dept of Forestry staff in 2006, were planted in early 2008 on the 80 acres burned on March 25, 2010. Fire is a critical component in the longleaf pine life cycle, necessary at this stage to reduce competition from surrounding vegetation for sunlight.





## **Natural Area Preserves Stewardship**

### **Natural Heritage Field Days-10-09 and 11-09**

Natural Heritage staff invited the public to the following Natural Area Preserves and led them on a tour of the properties:

Natural Area Events, October 10; Savage Neck Dunes NAP, October 21; The Pinnacle NAP, October 24; Buffalo Mountain NAP, October 27; Dameron Marsh and Hughlett Point NAPs, October 31; Crow's Nest, November 7

### **Open-house Event at Dameron Marsh and Hughlett Point -10/09**

On Tuesday, October 27, 2009 over 50 people attended the Dameron Marsh/Hughlett Point Open House held at the historic Shiloh School in Northumberland County. Highlights of the day included field trips to Dameron Marsh and Hughlett Point natural area preserves and words of support and encouragement from Delegate Albert Pollard and several key volunteers. Many local organizations were on hand with displays and informational materials including the Northern Neck Chapters of the Master Naturalist Program and the Virginia Native Plant Society, Northumberland Preservation Inc., Virginia Oyster Growers Association, the Northern Neck Land Conservancy. Staff from the Dept. of Game and Inland Fisheries assisted with field trips and promoted the Watchable Wildlife Program's five year anniversary of the Virginia Birding and Wildlife Trail. Staff from Belle Isle State Park assisted with field trips and provided a fabulous tent as well as tables and chairs. Master Naturalist and Natural Area Preserve volunteers came out in force to help park cars, assist with field trips, provide information to visitors and make sure everyone had plenty of hot cider and mini sweet potato pies which they had baked for the occasion.





*Dameron Marsh/Hughlett Point Open House*

### **Volunteers help plant natives for migratory songbirds on the Eastern Shore-03/10**

Thanks to 23 students from the University of Rochester and members of the Eastern Shore Master Naturalist Chapter, migratory songbirds will have 50 more acres of stopover habitat during the fall migration period. These volunteers planted 2,400 fruit-bearing shrubs in abandoned agricultural fields at Magothy Bay NAP. The students chose to return to the Shore as a continuation of an alternative spring break project initiated last year when they planted 75 acres at Magothy Bay NAP and 35 acres at Mutton Hunk Fen NAP. In addition to the planting, the students participated in a beach clean-up at Savage Neck Dunes NAP, cleared vegetation along a boardwalk at Cape Charles Coastal Habitat NAP, and assisted Kiptopeke State Park staff with maintenance projects. The students are planning to return again next year to assist with stewardship projects.



### **Invasive Species**

## **Phragmites Workshops-10/09 & 11/09**

During October and November, Natural Heritage staff partnered with the U.S. Fish & Wildlife Service and the Northumberland Association for Progressive Stewardship to conduct workshops for Northern Neck landowners about the reasons and methods for controlling Phragmites. Workshops were held at Lancaster Community Library and at the new Belle Isle State Park visitor center. Workshops were attended by private landowners and Master Gardeners. Funding support for this outreach effort was provided by the USFWS Mid-Atlantic Panel on Aquatic Invasive Species.

## **Invasive Species Outreach-11/09**

On Monday, November 16, 2009 DCR Natural Heritage Stewardship Ecologist Paul Clarke appeared at the invitation of a Northumberland County school teacher to be interviewed by middle and high school students discussing Virginia invasive species issues. Paul answered questions about the highly invasive wetland plant, *Phragmites australis* and the interview was then broadcast on the “morning news” to over 600 students. The school is competing nationally in the “Future Problem Solvers” program with teams of students addressing current and future invasive species problems in Virginia.

## **Workshop on Phragmites in the City of Norfolk area-02/10**

On February 20, 2010, DCR's Eastern Shore Region Steward, Dot Field, assisted City of Norfolk staff in conducting a Phragmites control workshop for private landowners. Phragmites is a tall, highly invasive wetland grass that supplants native marsh vegetation. Phragmites is of high concern in coastal residential areas where it reduces property values by obstructing water views, inhibits breezes, and increases mosquito breeding habitat. It also poses safety concerns as a fire hazard and provides concealment areas for criminal activity. The 16 participants attending the workshop were provided with information on Phragmites biology and ecology, problems it causes, and methods for its control. City of Norfolk staff presented specific concerns for the city and elaborated on restoration progress at public sites within the City where Phragmites has been controlled. The workshop was held at the Ernie Morgan Environmental Education Center in Lafayette Park.

## **Northeastern Regional Phragmites Workshop-02/10**

DCR Natural Heritage Stewardship Ecologist, Paul Clarke, participated in a two day workshop entitled *Charting a Course for Effective, Efficient, & Sustainable Management of Invasive Phragmites australis in the Northeastern U.S.* The workshop was hosted by the U.S. Fish & Wildlife Service's Patuxent Research Refuge in Laurel, MD with 50 participants representing federal and state coastal land managers from Virginia to Maine and researchers from Cornell, University of Rhode Island and the Smithsonian. Major issues and topics included current science and research on Phragmites, current management approaches and development of best management criteria and benchmarks. Mr. Clarke sat on the Managers Panel to field questions on prioritization of management, impacts of Phragmites, impacts of control actions, restoration practices and other control and restoration issues. Proceedings from the workshop will be developed and distributed.

## **Information Management**

## **Plant Eastern Shore Natives Campaign-01/10**

Eastern Shore Region Steward, Dot Field, presented an overview of the "Plant Eastern Shore Natives Campaign" at the UVA Anheuser-Busch Coastal Research Center (ABCRC) in Oyster, VA. Plant Eastern Shore Natives uses social marketing techniques to encourage the use of native plants in landscaping projects on the Eastern Shore. The campaign was initiated by the VA Coastal Zone Management Program and implemented

in partnership with the DCR-DNH Eastern Shore office, DGIF, VCE, DEQ Office of Environmental Education, The Nature Conservancy, the Alliance for the Chesapeake Bay, the Eastern Shore Soil and Water Conservation District, ABCRC and other local organizations. Eastern Shore residents and horticultural businesses were surveyed as part of the development process. Landowner participation is being encouraged through radio ads, window decals, information sessions and the publication of "Native Plants of Accomack and Northampton", a pictorial guide available free-of-charge to local residents. More information on the campaign, including a PDF file of the guide can be found at [www.deq.virginia.gov/coastal/go-native.html](http://www.deq.virginia.gov/coastal/go-native.html) . The presentation was part of the UVA ABCRC monthly seminar series.

### **National Conservation Easement Database-01/10**

In late January, DCR-Natural Heritage staff attended a planning meeting in Boulder, Colorado, for a project that will develop a "National Conservation Easement Database". This project is funded by the National Endowment for Forests and Communities and consists of a partnership that also includes NatureServe, the Conservation Biology Institute, Trust for Public Land, Defenders of Wildlife and Ducks Unlimited. Virginia DCR- Natural Heritage is looked to as one of the most advanced states in the U.S. in terms of tracking Conservation Easements and other Conservation Lands, via the Managed Areas Database. This robust database provides a tool for tracking conservation lands boundaries spatially using GIS, with a tabular component to manage tract-level information including acreages, land managers, owners and management intent. Virginia Natural Heritage was invited to this meeting to share expertise not only in the technical aspects of data management and reporting on Conservation Lands, but also their knowledge regarding partner collaboration, data collection and data aggregation.

### **Virginia Native Plant Society Annual Workshop-03/10**

Eastern Shore Region Steward, Dot Field, was one of the featured speakers at the Virginia Native Plant Society Annual Workshop held March 6, 2010 at the University of Richmond. The theme of the workshop was "At Water's Edge, Virginia's Wetland Habitats". Ms. Field's presentation focused on plants found in the coastal natural communities of the Virginia Eastern Shore, with an emphasis on the adaptations that allow survival in an often harsh environment. Approximately 100 persons attended the workshop. As a result of the presentation, the Virginia Native Plant Society is planning an October 2010 field trip to Savage Neck Dunes NAP on the Eastern Shore.

### **The Virginia DCR- Division of Natural Heritage now has a fan page on Facebook-02/10**

Utilizing this popular Web 2.0 social networking site, the Natural Heritage program posts content such as photos, videos, project updates, events, volunteer opportunities and achievements of the program. Many posts link back to the DCR website for more in depth information, but the Facebook site keeps interested citizens (a.k.a. Virginia DCR-Natural Heritage "fans") up to date with the most current happenings. Since going live on February 8, 2010, the site has garnered 168 fans and continues to average adding about four a week. Facebook members can become a fan from the front page of the Natural Heritage website, at [http://www.dcr.virginia.gov/natural\\_heritage/](http://www.dcr.virginia.gov/natural_heritage/)

### **Virginia Audubon Important Bird Area Program partners with DCR Natural Heritage on LandScope Virginia- 03/10**

"Conservation Planning Using LandScope on Virginia IBAs in partnership with Audubon Chapters in Virginia". This project is funded by a National Audubon Society collaborative grant to engage local Audubon

chapters seeking to conduct conservation planning on Virginia IBAs. Representatives from the six Audubon Chapters in Virginia: Audubon Society of Northern Virginia, Cape Henry Audubon Society, Northern Neck Audubon Society, Richmond Audubon Society, Northern Shenandoah Valley Audubon Society, and Virginia Beach Audubon Society will attend a LandScope [www.landscape.org](http://www.landscape.org) training. LandScope guides collaborative conservation through multimedia storytelling and mapping and was developed with NatureServe, National Geographic, and five state Natural Heritage Programs, including Virginia's. This training will instruct IBA volunteers on how LandScope can be used to communicate and collaborate on specific conservation action items on IBA lands. For example, volunteers might use LandScope as a communication tool by developing online, sharable maps to enhance opportunities for public education and outreach.

### **Land Conservation Information – 3/10**

DCR Heritage staff continue to track permanently protected lands in Virginia and have the following to report\*.

Acres protected 10/1/09 - 2/28/10 (coastal zone only): **26,934.74 acres**

Final acreage total for Kaine's land conservation goal (coastal zone only): **91,941.92 acres**

Total acres contributed towards McDonnell's goal through 2/28/10 (coastal zone only): **14,292.51 acres**

\*VOF numbers for March have not yet been reported or included.

#### **Natural Heritage Data Management Totals for FY2009:**

##### **Activity 10/01/09-03/31/10**

New Mapped Locations (EO) - 111  
Updated Mapped Locations (EOs) - 167  
New Conservation Site - 24  
Updated Conservation Sites - 54  
QC Mapped Locations (EOs)  
QC Conservation Sites

##### **Total Number in Database 03/31/10:**

Animal Mapped Locations (EOs)  
Plant Mapped Locations (EOs)  
Community Mapped Locations  
Conservation Sites  
Managed Areas: **2275**  
Mapped Tracts **3084**

### **c) DCR – Division of Planning and Recreation Resources**

#### **DCR Public Access Projects**

DCR is updating the agency website to include additional information on water trails and public access. This information will better integrate and serve the localities and planning district commissions in the coastal zone area of the Commonwealth.

The development of the James River Heritage Trail continues. This braided trail system encompasses the river and its banks from the headwaters in the Allegheny Mountains to its confluence with the Chesapeake Bay. The heritage trail is unique because of the emphasis on interpretation and potential for outreach to school groups. The trail is already in use by paddlers as well as by bicyclists and hikers in urbanized areas. Both banks of the river as well as the riverbed could contribute to a managed corridor that will enhance the natural resource and provide a host of outdoor activities.

Improvements associated with the trail will afford access to the river and encourage outdoor exercise and adventure as well as provide opportunities to interpret the historical context and encourage visitors to nurture this natural resource.

The Scenic River program raises the awareness of scenic rivers and helps protect their intrinsic qualities of scenic, recreational and historic attributes, and natural beauty. This year marks the 40th anniversary celebration of Virginia's Scenic River program. Scenic river designation for 56 miles of the Blackwater River from Proctors Bridge to the North Carolina line was passed by the General Assembly in 2010 pending approval by the Governor for a projected effective date of July 1, 2010. The local governing boards passed resolutions endorsing designation of the qualifying river segment. In 2010, DCR will be conducting an evaluation of the Nottoway River in Southampton County, from Route 653 (Carey's Bridge) to its confluence with the Blackwater River. It is anticipated that the Blackwater will be one of 4 river segments designated in 2010. In 2009, there were a total of four additions to the scenic river program.

### **Planning District Projects**

- 1) A canoe put-in ramp and one-mile greenway/trail on the north bank of the Appomattox River in Colonial Heights.
- 2) Conservation Easements -  
There were 21,145 acres of easements recorded in the coastal zone Oct 2009 – March 2010.

2009 Additions											
Site	City/County	Site Name	Parking	Boat Ramp	Hand Carry	Bank/ Pier Fishing	Swim Beach	Trails/ WL View	Restrooms	Latitude	Longitude
147	Essex County	Mount Landing Creek Canoe Launch (RRNWR)	M		X	X		X	X	37.56.4	-76.53.21
148	King George Co.	Hopyard Landing	M	X		X				38.14.40	-77.13.33
149	Town of Deltaville	Canoe Landing—Deltaville Maritime Museum	M		X					37.33.8	-76.19.23
150	Town of Smithfield	Windsor Castle Park Canoe Launch (opening 2010)	M		X	X				36.58.41	-76.37.20
2009 Updates											
152	Northumberland	(Previously Glebe Point Landing) Change to Great Wicomico Fish Pier (relocate on map as per these GPS points; remove boat ramp from matrix)	M		X	X			X	37.50.45	-76.22.7
14	Chesterfield	Dutch Gap Conservation Area—add boat ramp to matrix	L	X	X	X		X	X	(in system)	
43	York	(Previously Tide Mill Boat Landing) Change name to Smith Landing	L	X	X	X				(in system)	
46	Poquoson	Messick Point Landing—add restrooms to matrix	L	X	X	X			X	(in system)	
92	Portsmouth	Riverfront (City) Park—add boat ramp	L	X	X	X		X	X	(in system)	
116	Kilmarnock	Dameron Marsh NAP—add canoe launch	S		X			X		(in system)	



#### **d) DCR- Division of Chesapeake Bay Local Assistance**

During the reporting period, the DCR Division of Chesapeake Bay Local Assistance has nearly concluded the first round of compliance evaluations for local government compliance with the land use and water quality provisions contained in the regulations pertaining to the Chesapeake Bay Preservation Act. The Division has also continued to make progress on Advisory Reviews of the local codes and ordinances to identify the extent to which these ordinances address the protection of the quality of state waters. The following is a summary of activities for this period.

#### **Program Description**

The Bay Act requirements fall into three implementation phases. Phase I consists of local governments designating and mapping Chesapeake Bay Preservation Areas (CBPAs) and adopting land use and development performance criteria to protect those features. CBPAs include Resource Protections Areas (RPAs) and Resource Management Areas (RMAs). RPAs are made up of tidal wetlands, tidal shores, nontidal wetlands connected and contiguous to tidal wetlands or perennial streams and a

##### **Elements of Local Chesapeake Bay program**

1. Phase I – Map of Chesapeake Bay Preservation Areas and adoption of management program in local ordinances
2. Phase II – Adoption of water quality measures in Comprehensive Plans
3. Phase III – Review and revision of local codes for inclusion of specific standards that implement water quality performance criteria

##### **Comprehensive Plan Elements (partial list)**

1. Location of Chesapeake Bay Preservation Areas
2. Physical constraints to development
3. Commercial and recreational fisheries and other aquatic resources
4. Shoreline and stream bank erosion problems
5. Existing & proposed land uses
6. Public and private waterfront access
7. Protection of potable water supply
8. Local policy on land use issues relative to water quality protection

100-foot fully vegetated buffer. RMAs include lands adjacent to RPAs that

are made up of land features such as highly erodible soils, steep slopes and floodplains. Roughly half of all the Tidewater localities have identified their entire jurisdiction as an RMA. Phase II consists of the incorporation of water quality protection measures into local comprehensive plans. Phase III involves the review and revision of local land use codes to include specific standards that implement water quality performance criteria.

In its review of local Bay Act programs, the Chesapeake Bay Local Assistance Board (CBLAB) adopts two kinds of determinations. When a locality is deemed consistent, it means the local ordinances are in place to designate CBPAs and to require that the performance criteria be met. When the Board deems a local program compliant, it means that the locality is properly implementing the required code or comprehensive plan provisions.

#### **Consistency Reviews**

For the period covering October 1, 2009 through March 30, 2010 all 84 local Bay Act programs remain consistent with Phase I of the current Regulations. As indicated in previous reports, all 84 local comprehensive plans are also consistent with the Regulations.

#### **Compliance Evaluations**

For the period of October 1, 2009 through March 30, 2010, 10 localities were deemed by CBLAB to be fully compliant with Phase I of the Bay Act, bringing the total number of compliant localities to 82. As of March 15, 2010, 2 localities are not fully compliant but are addressing conditions to achieve full compliance. As a reflection of the progress made by localities on compliance with the Bay Act regulations, 83 of 84 (99%) of the Tidewater localities with on-site septic systems are meeting the septic pump-out provisions of the Regulations. For fiscal year 2009, 18,280 septic systems were pumped resulting in nitrogen load reductions of roughly 9100 pounds. Also, 83 of 84 (99%) of the Bay Act localities are now ensuring that water quality best management

practices in place to reduce pollutants generated from land development are being adequately maintained. Since 2008, Bay Act localities reported requiring the installation of 1388 new water quality BMPs that are treating 17,835 acres of land.

### **Advisory Code and Ordinance Reviews**

As stated in previous reports, Chesapeake Bay Local Assistance staff initiated Phase III of the Bay Act, requiring localities to review and revise their codes and ordinances for the inclusion of specific standards that minimize impervious cover, minimize land disturbance and maintain indigenous vegetation. The advisory review process, which is the first component of Phase III, began in September of 2009 and uses two checklists as screening tools in the review the local ordinances. A Plan and Plat Consistency Review Checklist helps determine if a locality has addressed the six plan and plat provisions that must be contained in local ordinances, as they are specifically required by the Regulations. The Checklist for Advisory Review of Local Ordinances determines if there are adequate provisions to address the three performance criteria and contains numerous examples of requirements that may be contained within a locality's land development ordinances. The advisory reviews will continue the first half of 2011. As of March 30, 2010, 19 Advisory Reviews have been initiated and seven have been completed and the staff findings have been conveyed to the local staff.

### **Site Plan Reviews**

For the reporting period 138 federal and/or state Environmental Impact Reports, Environmental Assessments, and Environmental Impact Statements were reviewed and commented upon. Staff routinely responds to technical inquiries from local government staff and from consulting firms in conjunction with these reviews. Several inquiries are typically fielded in any given week, which generally involve questions regarding water quality BMPs, buffers or interpretation of the technical aspects of the regulations and guidelines. In addition to the review of state and federal projects, staff reviewed 19 site plans at the request of local governments. The Chesapeake Bay Preservation Act contains a requirement that the Department provide site plan review assistance when requested by a locality.

### **Technical Assistance and Outreach**

DCBLA continues to actively provide technical assistance to local staff as well as education and outreach to local staff, elected and appointed officials, consultants and advocacy groups. During the reporting period, Department staff conducted 11 technical assistance site visits, 17 education & outreach events and 2 training workshop in order to promote a greater understanding and implementation of the Chesapeake Bay Preservation Act. Further, DCBLA staff liaisons regularly attend meetings of and maintain productive working relationships with the 8 Planning District Commissions within Tidewater Virginia. The staff liaisons also work closely with those PDCs to enhance local assistance efforts.

### **Next round of Compliance Evaluations**

As previously reported Chesapeake Bay staff worked with CBLAB and its policy committee to revise the review elements of the compliance evaluations. The Board adopted 29 of the 31 review elements on March 15, 2010, and deferred action on two agriculture related elements. The first requires an assessment for all agricultural land in local Chesapeake Bay Preservation Areas. The second requires SWCDs to approve encroachments into Resource Protection Area (RPA) buffers for agricultural activities. Compliance standards for these two review elements are still being developed. Staff will work with localities and agricultural interests on standards for CBLAB to consider at its June meeting. The next round of compliance evaluations will begin in June of 2010.

Chesapeake Bay staff is working diligently to identify and obtain grant funds to assist local government and Soil & Water Conservation Districts with the implementation of the Bay Act agricultural provisions.

## **5) Department of Game and Inland Fisheries (DGIF)**

### **Recreational Fishing:**

#### **1. Fisheries Stream Sampling Summary**

During this reporting period, VDGIF conducted survey work, using boat electrofishing techniques primarily, on sections of a multitude of streams which drain into the geographic area covered by the CZMP. Extensive sampling of stream fish communities occurred in the James, Rappahannock, Shenandoah, and York drainages. Relative abundance indices were generally obtained for all species surveyed, for recreationally important species additional parameters were examined, including analyses of age structure and growth rates based on examination of otoliths. A report detailing results of this work is being prepared under Sportfish Restoration Grant F-111-R.

#### **2. American Shad Restoration Program**

Otoliths collected while monitoring adult American shad populations in the James (n=106) and Rappahannock (n = 5) rivers during the spring, 2009 spawning run were processed. The overall percentage of hatchery fish in the vicinity of the James River fall line was 73%, which is in line with what's been observed in recent years. Ageing of the adult shad otoliths collected in the fall line area of the James River (n=97) continued to indicate a shift in the stock towards younger fish that began in 2007. Only five fish exceeded age 7, and 84% were 4-6 years of age. This was almost identical to what was observed in 2008. Despite substantial sampling effort, only 21 fish were collected in the gill nets. This resulted in the lowest catch per unit effort (CPUE) since the survey began in 2000. The fish passage crew, however, got the highest electrofishing CPUE ever observed below Boshers's Dam. The CPUE in VIMS' gill net survey at the mouth of the James River was moderately higher than in the previous two years, but still very low compared with values observed during the early-2000's. What explains the disparity among surveys? There's no way to know why the CPUE in VDGIF's gill net survey was so low. This was the first time that a waterman was not used to conduct the netting. However, the specifications of the gill net were the same and the VDGIF gill net crew leader had assisted and observed the waterman during the 2008 survey, so methods/techniques were supposedly consistent. The electrofishing CPUE for American shad below Boshers's Dam may have been positively biased due to the high flows observed during most of the sampling season. American shad show a propensity to move through the fall zone to Boshers's Dam when river flow is relatively high. Conditions during spring, 2009 were quite suitable to provide for such passage, and as a result, the Boshers's electrofishing CPUE may be a positively biased index of the abundance of American shad in the James River during spring, 2009. Still, along with the improvement observed in VIMS' gill net CPUE and reports of better catches by anglers, it may also be a positive sign for the spawning stock. Another positive sign was the appearance of a dominant 2004 year class, which should comprise an important component of the spawning stock again in 2010 as six-year-olds. Sampling results in 2010 should shed more light on whether or not the 2009 sampling results were significantly biased.

Although our Fish Passage crew has been monitoring anadromous fish spawning runs in the Rappahannock River for ten years, 2009 was the second year in which an enhanced level of effort was expended to sample American shad due to the expectation that adult hatchery-origin fish from restoration stockings would be returning to spawn. A total of 35 American shad were collected during this effort in 2008, and the number of returning adults was expected to increase in 2009 due to the onset of sexual maturity in fish stocked during the early years of the Restoration Program (stocking began in 2003). Unfortunately, sampling efforts yielded very disappointing results. A total of five fish were collected, one from an angler and four by electrofishing. Otolith analysis indicated that all five fish were of wild origin. Numerous sampling trips were cancelled due to high water, and it is hoped that this is the reason for the poor catches. Hopefully, 2010 sampling will be more productive and reflective of an improving stock due to restoration stockings.



### **3. Stream Monitoring, Adult Anadromous Fishes**

Weekly boat electrofishing for adult anadromous fish was begun in March 2010 on the James and Rappahannock rivers in the fall zones. The Chickahominy and Mattaponi rivers are also being sampled less frequently. On the James, to date, American shad catch rates have been typical but early hickory shad results have been lower than expected. American shad are also starting to show up at Boshers Dam. By early April, blueback herring were showing up in strong numbers on the tidal James. Sampling will continue through late May.

### **4. Boshers Dam Fishway**

In 2008, 62 American shad were counted using the fishway. This is up from only 37 in 2007 but below the long-term average of approximately 200 per year. To date, over 30 American shad have been counted from the 2009 video with several days left to review. After several flood events in March, the fishway was recently reopened in early April for the 2010 migration season.

### **5. Stream Monitoring, Juvenile Alosines**

Juvenile alosine sampling using a bow-mounted push net was conducted from June through October 2009 on the James and Rappahannock rivers. Boat electrofishing was also conducted in the upper James and tidal Rappahannock in the fall to collect shad and herring juveniles. Electrofishing is more effective for larger alosine juveniles later in the year when the fish are better at avoiding the push net. Sampling resulted in the collection of target species from both rivers. An interesting highlight of the 2009 juvenile sampling season was that juvenile American shad were located visually about nine miles upstream of Boshers Dam and several were collected using a technique known as pre-positioned area shocking. Copper probes (anode and cathode) are placed on the bottom of the river where the fish are spotted. The probes are wired to the generator on the remotely located boat. Netters collect the fish that get stunned between the probes. This technique allows access to area that could not otherwise be sampled using standard boat electrofishing.

Otoliths were extracted from the American shad juveniles and examined under a black light microscope to determine origin. Oxytetracycline treatment results in a visible ring in the otoliths under black light. Samples from 2009 are still being processed. Nearly 100% of the juveniles collected upstream of Boshers Dam were hatchery fish and nearly 100% of the juveniles collected in the tidal Rappahannock were wild fish. In past years it has been the norm for there to be less than 5% wild fish upstream of Boshers. The percent hatchery fish on the tidal Rappahannock has fluctuated but it has never been such a high percentage of wild fish as in 2009.

### **6. Fish Passage Projects**

The final design phase is underway for the proposed removal of Harvell Dam, the first dam encountered by migratory fish on the Appomattox River. The owner has agreed, in principle, to the removal project but an official access easement is still needed. Several implementation funding opportunities are currently pending. Planning for permitting is also being conducted. Because this site is still under a FERC license, the revocation of the license will have to be completed before the project can proceed.

In December 2009 Fletcher Mill Dam was removed from the Thornton River (upper Rappahannock drainage). Riverton Dam on the N. Fork Shenandoah in Front Royal is also slated for removal.

## **Wetlands:**

### **1. Mitigation Banking**

VDGIF continues to participate on the Inter-Agency Review Team that oversees stream and wetland mitigation banking and provide input on new banks all over Virginia, including the coastal zone. Numerous proposals have been made for new banks and/or additions to existing banks within the coastal region of Virginia.

### **2. Wetland Restoration**

VDGIF continues to have an active voluntary wetland restoration program. The program assists private, state, local, and federal government landowners to restore wetlands on their property. Landowners receive assistance with site selection, cost-share programs, restoration design, and permit issues. The Virginia Department of Game and Inland Fisheries is actively restoring wetland habitats in Virginia. Partnerships with organizations such as The U.S. Fish and Wildlife Service's Partners for Fish and Wildlife Program, The U.S. Department of Agriculture's farm bill programs, Ducks Unlimited, The Chesapeake Bay Foundation, and many others have resulted in additional wetland acres restored.

## **Geographic Information Systems/Data Management:**

DGIF continued to maintain spatial datasets of wildlife locations and resources in the coastal zone. GIS Staff supported a variety of DGIF activities from law enforcement investigations to wood turtle research to quail action plan implementation.

GIS Staff managed a cooperative project with VA Dept. of Conservation and Recreation – Division of Natural Heritage and Virginia Commonwealth University – Center for Environmental Studies to map Priority Conservation Areas. This project, *Sustainable Communities: Assessment of Priority Conservation Areas and their Vulnerability to Development*, was funded through the Virginia Coastal Zone Management Program – NOAA Grant NA 08NOS4190466 FY08 Task#11.02. Details are available in that project report. DGIF GIS Staff provided data from this project directly to coastal Planning District Commissions and through our agency website. These data have been used by several land trusts and other partnerships to help target conservation opportunities.

GIS Staff have developed several mobile data collection applications using a handheld computer with a GPS receiver. One application has been designed for warm-water fish sampling. It is anticipated that this application will result in more accurate and timely fish collection data within the coastal zone.

DGIF continues to develop and update spatial information for recreational opportunities, including the comprehensive boating access database, updated wildlife management area boundaries and facilities, and bird and wildlife trail site data for use in Google Earth.

## **Wildlife Mapping:**

To date, the WildlifeMapping program has trained over 1,450 volunteers and has generated over 60,000 observations of wildlife and their habitats. The coastal region is the most represented region, both in terms of volunteers and observations, providing approximately 40% of the incoming data. Most WildlifeMapping workshops continue to be conducted in conjunction with chapters of the Virginia Master Naturalist Program. Currently, the Virginia Master Naturalist program has 27 active chapters. With nine of the 27 chapters in the Coastal Zone, it is anticipated this region will continue to dominate in the quantity of WildlifeMapping data received from Master Naturalists. The Historic Rivers Chapter, based in Williamsburg now provides their own WildlifeMapping workshops and hosted two within the last 6 months. A third was held at Belle Isle State Park

for the Northern Neck Chapter. These Master Naturalists can also be expected to provide many hours of volunteer service to the Coastal Zone natural resource community.

A new collaborative effort between DGIF and DEQ to host joint Wetland/Wildlife Mapping workshops targeting primary and secondary educators, resulted in two workshops in the Coastal zone this past fall. DGIF and DEQ are submitting two grant proposals to NOAA that, if accepted, will provide significant funding for increased citizen-science beach blitzes and monitoring of Coastal Zone habitats for three years, beginning in October, 2010.

### **NonGame Species Monitoring and Research:**

#### **1. Delmarva fox squirrels**

One of the recovery objectives for the federally endangered Delmarva fox squirrel (*Sciurus niger cinereus*; DFS) is to restore populations throughout its historic range, which includes Virginia's Eastern Shore. At present, Chincoteague National Wildlife Refuge harbors the only known self-sustaining DFS population in the state of Virginia. The translocation of DFSs on lands that currently do not support squirrels have proven to be a successful means of expanding and increasing DFS populations within the species' historic range. Many of the forests that may serve as suitable translocation sites Virginia's Eastern Shore are privately owned. In 2004, DGIF was awarded federal funding under the Private Landowner Incentive Program to develop and implement a Safe Harbor Program that would provide private landowners with legal assurances that they will not be held accountable if translocation efforts fail, and funding to conduct habitat management activities on their lands that would benefit future introductions of DFS. In 2007, DGIF entered into a contractual agreement with a locally owned environmental consulting firm (hereafter referred to as contractor) to assist with the project. Below is a summary of actions taken towards the establishment of a DFS safe harbor program on Virginia's Eastern Shore during this reporting period.

The majority of work completed this during this reporting period focused on persuading the two major landowners in Area 1 to participate in the safe harbor program and allow DFS translocations to occur on their properties. Area 1 is located in northern Accomack County within 5 miles of two viable DFS in southern Maryland. So far, both landowners have shown a reluctance to enter into a safe harbor agreement because of fears regarding possible restrictions that may be imposed by the Endangered Species Act.

During the last reporting period, VDGIF staff and the contractor met with representatives of one of the landowners, Sustainable Conservation Inc. (SCI), a subsidiary of The Conservation Fund to address their concerns. Even though the meeting ended on a positive note, we recently learned that SCI has decided against having DFS released on their property. We plan to get in touch with representatives from the Conservation Fund in hopes of getting their support for the project.

This spring we met with the attorney of the second landowner to address his client's concerns and at the end of the meeting the attorney said he saw no and that he would advise his client to reconsider our proposal.

#### **2. American Oystercatcher Winter Surveys**

DGIF and The Nature Conservancy's – Virginia Coast Reserve (VCR) continued to conduct an annual winter American Oystercatcher survey in late fall. Since 1999, the winter population estimates ranged between 1600 – 2500 oystercatchers, which represent approximately 15% - 23% at the Atlantic coast population. Our 2009 winter estimate was 2,381 individuals, the second highest recorded since surveys began a decade ago.

### 3. American Oystercatcher Resighting Surveys

The U.S. Shorebird Plan (Brown et al. 2001) classified the Atlantic coast American Oystercatcher (*Haematopus palliatus palliatus*) to be a high priority, at-risk species. The American Oystercatcher Working Group (AOWG), a group of shorebird biologists, researchers, graduate students and managers from Massachusetts to Florida, came together several years ago to address the apparent decline in the oystercatcher population. AOWG developed a list of research and monitoring objectives to determine seasonal movement patterns, distribution and survivorship. One of those objectives included marking adults and young with field-readable color bands throughout the species' Atlantic coast range and conducting post-breeding resighting surveys on high tide roosts from Virginia to Florida.

In 2003, The Nature Conservancy's – Virginia Coast Reserve (VCR) initiated an oystercatcher banding project in Virginia, which targeted primarily unfledged young (< 35 days old) that were captured by hand on breeding territories during the day. In the first year, VCR staff applied unique combinations of multiple, UV resistant single layer darvic plastic wrap around color bands on the right and left metatarsus and tibiotarsus along with a size 5 or size 6 BBL band on the right metatarsus. Soon afterwards, researchers throughout the species range discovered that oystercatchers were able to remove the single layer wrap-around bands which made it impossible to identify individuals with lost color bands. In 2004, the wrap around color bands were replaced with 15 mm high, color bands made of a triple-layer, UV-resistant darvic plastic. Each band is engraved twice with field-readable two-digit alpha-numeric codes and duplicated to form a set two of identically coded bands. Each bird receives two identical color bands, one on each tibiotarsus, and a BBL band on the right or left metatarsus. States were assigned a different color to help identify banding locations. Virginia's band color scheme is black with white engraved codes and the BBL band is applied on the right metatarsus. Since 2004, a total of 508 American Oystercatchers (487 hatch year birds and 21 adults) were banded in Virginia by VCR, DGIF, USFWS and John Weske, a private researcher.

In the fall of 2005, DGIF and VCR staff began conducting post-breeding resighting surveys of banded American Oystercatchers at all known high tide roost sites in the seaside lagoon system from Chincoteague Bay to Magothy Bay. Five water-based routes were established to ensure all sites were visited in a systematic fashion. We attempted to run each route every 12 – 14 days when high tide occurred between 0700 and 1300 hours. We used 10 x 42 binoculars and 32x – 60x spotting scopes to view birds from the boat, or when safe anchorage was possible, from land. After recording flock size, we carefully scanned the flock for banded birds. On most occasions, band readings were verified by two observers. In 2007, USFWS staff began assisting with re-sighting efforts which enabled us to extent regular coverage to all routes and increase the number of routes to seven. The seven routes currently encompass 75 roost sites.

To date, a total of 357 (70%) individuals banded in Virginia have been re-sighted at least once along with 121 individuals that were banded out-of-state. During this reporting period, we re-sighted 40% (n = 196) of the birds banded as chicks in 2004, 37% (n = 73) of which were at least 4 years old, indicating that a relatively high portion of fledged young survive to adulthood (oystercatchers reach maturity between 3 - 4 years of age).

We plan to continue these post-breeding survey efforts until we have a sample size large enough that will allow us to calculate survivorship, establish age at first breeding, and obtain a better understanding of local movement patterns.

#### *Literature Cited*

Brown, S., C. Hickey, B. Harrington, and R. Gill, eds. 2001. The U.S. Shorebird Conservation Plan, 2<sup>nd</sup> ed. Manomet Center for Conservation Sciences, Manomet, MA.

#### **4. Endangered or Threatened Birds**

The department continues to maintain, improve, and expand activities related to endangered and threatened birds. Program activities are accomplished through education, research, monitoring, species management, and coordination with the private sector, NGOs, and other governmental agencies.

Several educational presentations concerning endangered and threatened birds were made to public schools, conservation agencies and the private sector. Topics ranged from Bald Eagle management, Peregrine Falcon restoration, and the avifauna of the James River. Further, this is the fifth year that we, in partnership with the Norfolk Botanical Gardens, are maintaining a webcam/website at an active Bald Eagle nest. This webcam offers real time video to a web-site, which has generated tremendous interest in Bald Eagles by the public.

We continued our efforts related to Bald Eagle protection and management. Over the past year we provided significant guidance and comments to the USFWS concerning population monitoring, habitat management, and take permits under the Bald and Golden Eagle Protection Act. VDGIF, in partnership with the USFWS Virginia Field Office, is working toward finalizing revisions to the Bald Eagle Protection guidelines for Virginia. These guidelines are similar to the federal guidelines but are tailored specifically for management issues unique to the Chesapeake Bay Region (CBR) (e.g., intensive shoreline development, protection of concentration areas, etc.).

The department's Nongame Bird Projects Coordinator has been serving on the Atlantic Flyway Council's Nongame Technical Section (NTS). A large portion of the work with the NTS has involved commenting on Bald Eagle de-listing, the Bald and Golden Eagle draft regulatory process, National Bald Eagle Management Guidelines, the National Bald Eagle Monitoring Plan, bird banding regulations, and Peregrine Falcon take by falconers.

Our Avian Conservation Biologist continued to make progress this year through the Virginia All Bird Conservation Initiative (VABCI). VABCI is a step-down process of regional and national bird conservation initiatives to the state level. VABCI is serving as the major conduit for implementation of avian research and conservation projects within Virginia. Meetings were held with our conservation partners to discuss priority species, research and monitoring needs, and habitat/land acquisition projects.

#### **Bald Eagle Winter Concentration Area Surveys**

In February of 2010, DGIF conducted aerial surveys for bald eagles along the major tributaries of the Chesapeake Bay. The surveys are a continuation of winter bald eagle aerial surveys conducted in 2007, 2008 and 2009 in order to assess abundance trends in bald eagle concentration areas along the tidal freshwater/oligohaline reaches of the Rappahannock, James and Potomac Rivers. In both 2009 and 2010 the surveys were more comprehensive in scope, including the concentration areas but extending across salinity zones of these rivers (and including the York River in 2009). Surveys were conducted from a high-wing Cessna 172RG aircraft flown parallel to the shoreline and along tidal creeks along the following river segments: Rappahannock River on Feb 8 from Mount Swamp to the Chesapeake Bay; Potomac River on Feb 21 and 22 from Mason Neck State Park to Taskmakers Creek on the Virginia shore, and from Potomac Heights to Point Lookout on the Maryland shore; and James River on Feb 24 from Rte 295 to Craney Island, including the Chickahominy River but excluding the Nansemond River. The location of all bald eagles observed was recorded on 1:50,000 USGS and National Geographic topographic maps. Eagles were identified as adults and sub-adults. Bald eagle nests and their occupancy status were also recorded. Data are in the process of being analyzed.

## **Bald Eagle Trapping**

Although we have monitored bald eagle abundance within concentration areas in the Chesapeake Bay for the past several years, we have much yet to learn about the movements of eagles between and outside of these concentration areas and their use of the broader landscape. To this end, we continued in the winter of 2010 with the bald eagle trapping that we initiated in the past few years. Trapping occurred at the Rappahannock River National Wildlife Refuge, where, in cooperation with USFWS staff, we captured over 12 eagles. Each eagle was banded with USGS and alpha-numeric color bands to facilitate resighting. Blood was harvested from each for future lead contamination analysis, and feathers were harvested for an ongoing mercury contamination analysis in partnership with Virginia Tech. In addition, five eagles were outfitted with cellular/GPS transmitters purchased by USFWS. These transmitters will provide detailed data on movements, landscape use and time budgets for each of these birds. We captured and banded an additional 4 bald eagles on private lands on the Eastern Shore. Blood and feathers were likewise harvested from these birds. In addition, 2 of these birds were fitted with patagial tags to further facilitate resighting.

## **Monitoring Bald Eagle Use on Cat Point Creek**

DGIF continued its monthly monitoring of bald eagle numbers on Cat Point Creek, a tributary to the Rappahannock River. The surveys are the result of a Virginia Department of Transportation (VDOT) proposal to replace the two lane bridge that crosses CPC on route 624 (Newland Rd.) in Richmond County, VA. While the existing bridge does not allow passage of large watercraft and minimizes boat traffic upstream due to the low height of the bridge above the waterline. The proposed replacement bridge would be characterized by a greater height above the waterline. During the environmental review and permit process, the VDGIF and the U.S. Fish and Wildlife Service (USFWS) expressed concern about the increased height of the new bridge on the grounds that it could allow passage of larger vessels and lead to increases in boat traffic both upstream and downstream. Research conducted on Virginia's tidal rivers, by the Center for Conservation Biology at the College of William and Mary, indicated a negative relationship between Bald Eagle shoreline use and boat use (Watts 1998). Increases in boat traffic during the summer and winter Bald Eagle concentration periods (May – August and November – March) could possibly result in changes in the distribution and use by Bald Eagles on CPC. Because of this potential adverse impact, the USFWS and VDGIF recommended that a sub-structure be added to the new bridge to abate increased boat traffic and prevent passage of larger vessels upstream of the bridge. However, VDOT was reluctant to comply with the recommendation due to concerns they expressed about bridge maintenance and safety issues. As a result the USFWS required that five years of Bald Eagle monitoring be conducted on CPC within 750 feet of the Rt. 624 Bridge in order to evaluate any potential negative impacts that the increased bridge height may have on eagle shoreline use and distribution.

VDOT provided VDGIF with funding to conduct the required monitoring within a 750 foot radius of the Rt. 624 Bridge. However, the VDGIF thought the scope of monitoring was too narrow and felt the entire creek (from the mouth of CPC to Menokin Bay) should be monitored, since the boat traffic on CPC originates from launch sites at both of these locations. As a result VDGIF has and will conduct required monitoring within the 750 foot radius from the bridge site using VDOT funding, but is also conducting an expanded survey of the entire creek using other project funds and volunteer efforts. This report will include results from the required monitoring area as well as the expanded survey.

### *Study Objectives*

The objectives of this project are three-fold. They include: 1) document the seasonal distribution and abundance patterns of Bald Eagles along CPC within 750 feet of the Rt. 624 Bridge (required monitoring area) and the navigable extent of the CPC (the mouth of the creek to Menokin Bay) before, during, and after bridge construction; 2) determine the level of human recreational and commercial use on CPC from the mouth of the creek to Menokin Bay and within 750 feet of the Rt. 624 Bridge before, during and after construction; 3)

evaluate changes, if any, in the distribution and abundance of Bald Eagles, people and boats along CPC and near the Rt. 624 Bridge as result of increased bridge height.

### *Methods*

The study area includes the section of CPC within 750 feet of the Rt. 624 Bridge (both upstream and downstream) and the expanded survey area that includes the entire creek from the mouth of CPC to Menokin Bay. Shoreline surveys are conducted by operating a Jon Boat parallel to the shoreline. One observer operates the boat and helps to spot eagles, while the other observer spots and maps eagles, boats, and people. All Bald Eagles observed are plotted on 7.5 minute USGS quad sheets. Eagles are aged by year class (young of year, second year, third year, fourth year, and adult). Eagles that are unable to be aged are classified as unknown juveniles or Bald Eagles of undetermined age. The distance between the observer and all perched Bald Eagles is recorded. In addition, the distance from the survey boat at which birds flush is recorded. For birds that do not flush, their minimum distance from the survey boat is also recorded. This information will be used to calculate flush probabilities along CPC and near the Rt. 624 Bridge.

Human use of CPC and near the Rt. 624 Bridge is documented by mapping all people observed along the shoreline and categorizing their activities. Activities are classified as 1) recreating, 2) working, or 3) fishing. Further, all boats in operation during the survey are mapped. Boats are classified as follows: 1) sport boat, 2) jet ski, 3) Jon Boat, and 4) pontoon boat. Size classes of boats (<20ft. and 20-50ft.) and their activity status (a. fishing, b. recreating, and c. working) are recorded. All spatial data is currently being entered into a Geographical Information System for spatial analysis. Wilcoxon rank-sum analysis was conducted to test for differences between weekday versus weekend eagle abundance, weekday versus weekend human activity (human shoreline use and boat traffic), and weekday Bald Eagle shoreline occupancy versus weekend Bald Eagle shoreline occupancy (Buehler 1990).

Bald Eagle surveys began in November 2006 and are continuing on a monthly basis over the next four years. Further, weekend surveys, which are paired with weekday surveys on a monthly basis, began in March 2007 and will continue throughout the entire five year monitoring period. Data collected will be used to evaluate the changes in Bald Eagle and human shoreline use along CPC and near the Rt. 624 bridge prior to and following bridge construction, as well as seasonal changes in the distribution of Bald Eagles, people and boats.

### *Literature Cited*

- Buehler, D.A. 1990. Bald Eagle Distribution, Abundance, Roost Use and Response to Human Activity on the Northern Chesapeake Bay, Maryland. Ph.D. Dissertation. Virginia Polytechnic Institute and State University 131 pp.
- Watts, B.D. 1998. Investigation of Bald Eagles within the Rappahannock River Concentration Area. Center for Conservation Biology Technical Report, CCBTR-98-02. College of William and Mary, Williamsburg, VA. 65pp.

### **Vultures**

DGIF and USDA Wildlife Services continue to monitor the number of Black Vultures using Dutch Gap and nearby areas on a weekly basis since July 2009. For our purposes, Dutch Gap includes the Dominion power plant, Chesterfield County Henricus Park and boat access, and areas of the James River immediately adjacent to the power plant. The purpose of the monitoring program is to determine the response of Black Vultures to hazing that was initiated to eliminate damage caused by vultures at Dutch Gap. Through discussions with the

Center for Conservation Biology, monitoring efforts were expanded in December 2008 to include portions of the Rivers Bend Development because vultures began to congregate in that area after hazing was initiated at Dutch Gap. Monitoring efforts included counting the number of Black Vultures that were present at Dutch Gap and the Rivers Bend Development. In November 2007, project partners captured and tagged 100 Black Vultures with uniquely numbered wing tags. In March 2009, an additional 100 Black Vultures were tagged in the same manner. When we monitor numbers of vultures at each site, we also search for tagged vultures to document movements of individual vultures over time.

## **B. FEDERAL CONSISTENCY**

During the first half of FY 2009 the Office of Environmental Impact Review/Federal Consistency (OEIR) reviewed 103 development projects and management plans for consistency with the Virginia Coastal Zone Management Program (VCP). This represents 71.2% of the total amount of projects (130) reviewed during this period. Major state projects accounted for 14 projects, 47 were federal actions, and 42 were federally funded projects (predominantly local government projects). The 47 federal projects included 25 federal agency activities, 6 federal licenses, permits or approvals, 12 HUD mortgage insurance projects (submitted as a residual category pursuant to the federal consistency regulation (15 CFR 930.31(c)), and 4 projects using HOME TCAP (federal stimulus) funding from HUD which is passed through Virginia Department of Housing and Community Development (DHCD) and Virginia Housing Development Authority (VDHA) to private development companies. HUD is requiring private developers seeking federal stimulus money for projects in Virginia's designated coastal zone to ensure that their projects are consistent with the enforceable policies of the VCP. While Subpart F reviews do not apply to private recipients, VHDA, on behalf of the DHCD, requires recipients of HOME TCAP funds to certify that their proposals are consistent with the VCP in lieu of DHCD providing the certification. At HUD's request, DEQ has agreed to review and respond to HOME TCAP funded private development activities in the state's coastal zone. This agreement is limited to the duration of the HOME TCAP federal stimulus program. All federal consistency determinations and federal consistency certifications were completed with the established legal deadlines.

The OEIR continues to maintain a website for Federal Consistency Reviews and can be accessed through DEQ's main webpage or found at <http://www.deq.virginia.gov/eir>. The webpage includes the Commonwealth's Federal Consistency information package, a project list with project descriptions, and links to the DEQ main webpage for public notices of Federal consistency reviews. The webpage is updated weekly.

The federal consistency information package was revised during this period. The revised information package now defines the "VCP" as the Virginia Coastal Zone Management Program instead of the previous definition as Virginia Coastal Resources Management Program reflected in the Final EIS. This change was made to be consistent with the new definition adopted by the VCP Program Manager.



Table 1 depicting federal projects in Tidewater, Virginia reviewed from October 1, 2009 through March 31, 2010.

<b>TYPE OF FEDERAL PROJECTS REVIEWED*</b>	<b>NUMBER OF PROJECTS COMPLETED</b>	<b>REVIEW PERIOD</b>
*Direct Federal Actions	37	30-60 Days
** Federal Activities (approvals & permits)	6	90 Days
***Federally Funded Projects	46	30 Days
Outer Continental Shelf	0	45-60 Days
<b>TOTAL</b>	<b>89</b>	<b>30-90 DAYS</b>

\*Includes 12 HUD Mortgage Insurances reviewed as FCD residual category of Subpart C of the Regulations.

\*\*These projects do not include permits issued pursuant to Section 404 of the Clean Water Act administered by the U.S. Army Corps of Engineers. Such permits are reviewed by the regulatory agencies under a separate interagency coordinated review process (coordinated by the Norfolk District U.S. Army Corps of Engineers).

\*\*\* These include the 4 TCAP (federal stimulus) funding from HUD and federal assistance to local government reviewed under subpart F.

## **SIGNIFICANT FEDERAL PROJECTS REVIEWED FOR CONSISTENCY WITH THE VCP from 10/1/2009 to 3/31/2010**

### **I. Federal Agency Projects**

*The following projects are examples of federal agency projects subject to Subpart C of 15 CFR 930.33(a)*

Bulkhead Repairs- DEQ completed the coordinated review of a federal consistency determination submitted by the U.S. Department of the Navy for repairs to bulkheads W305 and W306 at Naval Station Norfolk. The Navy proposes to install approximately 2,166 linear feet of steel sheet-piled bulkhead no more than 2 feet channelward of the existing bulkhead. In addition, approximately 540 linear feet of riprap toe protection will be placed channelward of the new bulkhead, in three locations where water depths exceed -20.0 feet mean low water. Based on reviewers' comments, DEQ concurred that the proposal is consistent with the enforceable policies of the Virginia Coastal Zone Management Program. The Commonwealth's response included the requirement to work with the Department of Historic Resources to ensure compliance with the National Historic Preservation Act and the proper use of erosion and sediment control measures during repair activities.

Bulkhead Repairs Objection- DEQ objected to the Navy's federal consistency determination (FCD) based on insufficient information for its proposal to repair an existing bulkhead at Naval Station Norfolk. During the course of DEQ's coordinated review of the FCD, the Virginia Marine Resources Commission (VMRC) notified DEQ that the Navy had begun work on the repairs to the bulkhead, but the extent of the work was unknown. This violation of the federal consistency regulations was noted in the objection. In addition, the VMRC determined that the FCD document did not provide sufficient information related to the subaqueous lands

management enforceable policy. The FCD failed to justify the extent of encroachment onto subaqueous lands caused by the proposed riprap at the base of the bulkhead, to clarify the extent of work at the site, and to justify why the project started prior to the FCD review. Accordingly, DEQ requested clarification and despite one 15-day deadline extension, the Navy has not provided the necessary information. DEQ will lift the objection if the Navy provides adequate information to complete the federal consistency review.

Prince William Forest Park - DEQ completed a coordinated review of a federal consistency determination (FCD) submitted by the National Park Service (NPS). The project will include resurfacing, restoring, rehabilitating and reconstructing park roadways and parking lots, and replacing signs, guardrails, and culverts at Prince William Forest Park in Prince William County. Two parking lots may be expanded and an intersection may be reconfigured. According to information in the FCD, the proposed activity would affect the wetlands management, nonpoint source pollution control, air pollution control and coastal lands management enforceable policies of the VCP. Based on the information provided in the FCD and the comments of reviewing agencies, DEQ concurs with NPS that the proposed activity is consistent with the Virginia Coastal Zone Management Program, provided that NPS complies with all requirements. The review includes recommendations to coordinate with the DEQ regional office on potential discharge permitting requirements prior to construction and with the appropriate agencies during the Joint Permit Application process, if applicable.

Disposal and Reuse of Fort Monroe -DEQ completed its review of the Draft Environmental Impact Statement (DEIS) and Federal Consistency Determination (FCD) for the BRAC 2005 Disposal and Reuse of Fort Monroe, located in the City of Hampton. The DEIS evaluates the environmental and socioeconomic impacts of closing the installation and disposing of the 570-acre federal fee-owned property and considers reasonable reuse alternatives. The DEIS also considers the cumulative impacts of potential reuses of approximately 290 acres of the property that will revert to the Commonwealth of Virginia according to deed provisions established when the Army was granted ownership of the property. Based on the information provided in the DEIS and comments from natural resources agencies, DEQ has no objection to the proposal as presented in the DEIS, provided the Army complies with all applicable laws and regulations. Also, based on our review of the Army's FCD, and the comments and recommendations submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ concurs that this proposal is consistent with the VCP. However, the Virginia Department of Transportation (VDOT) is concerned that some of the previous comments which VDOT provided to the Army in a November 4, 2008 letter from the Virginia Secretary of Transportation and a January 9, 2009 letter from the VDOT Hampton Roads District Administrator have not been satisfactorily addressed in the DEIS. Those comments address the need to discuss alternate transportation modes, the development of a Transportation Demand Management Plan, an analysis of I-64 impacts and the development of an internal residential capture rate. The VDOT response also includes specific questions on figures, tables, appendices and data contained the DEIS traffic study.

Replacement of Bridge No. 11 – DEQ completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the Department of the Army for the proposal to replace Bridge No. 11 over Bailey Creek at Fort Lee in Prince George County. The project involves the replacement of a former bridge that was destroyed by flooding. The new bridge will cross the creek at approximately the same location as the former bridge. The new bridge will measure approximately ten feet wide and eighty feet long. Bridge piers will be constructed in upland areas on either side of the creek. The superstructure of the truss-style bridge will be lowered on the piers by a crane for attachment. Based on DEQ's review of the consistency determination and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ concurs with the FCD that the proposal is consistent with the enforceable policies of the Virginia Coastal Zone Management Program provided all applicable permits and approvals are obtained. Applicable permits and approvals may include but not limited to: subaqueous lands permit administered by the Virginia Marine Resources Commission; Department of Conservation and Recreation (DCR)-administered erosion and sediment control and stormwater management approvals; DEQ-administered solid waste, hazardous waste, and hazardous

materials handling requirements; and consistency with the Chesapeake Bay Preservation Area regulations as administered by DCR.

Navy's Joint Regional Correctional Facility (Modified) – DEQ completed the Commonwealth's review of a Federal Consistency Determination (FCD) submitted by the Navy for the construction of a joint regional correctional facility at the Naval Support Activity Northwest Annex (NSA-NW) in the City of Chesapeake. The 25-acre footprint of the facility includes construction of the confinement area, laundry areas, a commissary, a library, educational and vocational spaces, and security provisions. Approximately 256 military personnel would be relocated to NSA-NW. This FCD was previously reviewed by DEQ; however, during the first review, the Commonwealth objected to the Navy's FCD due to lack of sufficient information regarding the wetlands management enforceable policy of the Virginia Coastal Zone Management Program. The Navy submitted additional information but it was still inadequate to allow the DEQ to lift its objection. Therefore, the Navy submitted a new FCD which indicated that the project site was moved to the north of the original site in order to reduce the impacts to wetlands. Based on the minimization of the wetlands impacts, DEQ concurred that the new proposal is consistent with the enforceable policies of the VCP.

Artificial Oyster Reef - DEQ completed the Commonwealth's review of a federal consistency determination submitted by the U.S. Department of the Navy (Navy) to install two artificial oyster reefs in Little Creek Cove at Naval Amphibious Base Little Creek in Virginia Beach. Based on reviewers' comments, DEQ conditionally concurs that the proposal is consistent with the enforceable policies of the Virginia Coastal Resources Management Program (also called Virginia Coastal Zone Management Program) (VCP). The conditional concurrence is based on the Navy's need to submit a Joint Permit Application (JPA) for review by the DEQ-Tidewater Regional Office (TRO) and the Virginia Marine Resources Commission (VMRC), and concurrence by both the TRO and the VMRC that the project is consistent with the point source pollution control and the subaqueous lands management enforceable policies of the VCP, respectively.

Redevelopment of Navy Oceanfront Property – DEQ completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the U.S. Navy to redevelop oceanfront property situated at 67<sup>th</sup> Street in the City of Virginia Beach. Twenty vacation rental units would be constructed in three multi-unit two-story buildings. Based on DEQ's coordinated review of the FCD and the comments submitted by agencies administering the enforceable policies of the also called the Virginia Coastal Zone Management Program, DEQ concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained. The DEQ response includes the recommendation that the Navy work with the Virginia Beach Wetlands Board concerning potential impacts to the primary sand dune on site.

Deconstruction of the Low-Turbulence Pressure Tunnel Complex – DEQ completed the coordinated review of a Draft Environmental Assessment (EA) submitted by the National Aeronautics and Space Administration (NASA) for the deconstruction of the low-turbulence pressure tunnel complex (LTPT) by the Langley Research Center on land leased from Langley Air Force Base (LAFB) in the City of Hampton. The project consists of the deconstruction of the LTPT complex to include Buildings 582A, 583, 583A, and 585. Deconstruction activities would include the dismantling and extracting of reusable and recyclable materials prior to the removal of the buildings. Building 582 will be transferred to LAFB for use as administrative office space. Reviewers found that the proposal is unlikely to have significant effects on the Commonwealth's natural resources. However, the Hampton Roads Planning District Commission (HRPDC) noted that the proposed project involves the demolition of buildings that are designated as National Historic Landmarks as well as being listed on the National Register of Historic Places and the Virginia Landmarks Register. Since the deconstruction of the facility is not being performed to construct new structures at the site, HRPDC believes that there is no urgent need for this action. Alternatives to demolition may exist that have not yet been identified, and HRPDC recommends that NASA explore other options to demolition. The Department of Historic Resources is working with NASA to develop a memorandum of understanding pertaining to historic resources.

Fort Belvoir Child Development Center Conditional Concurrence - DEQ completed the coordinated review of an Environmental Assessment (EA) and Federal Consistency Determination (FCD) submitted by the Army for the construction of the South Post Child Development Center (CDC) at Fort Belvoir in Fairfax County. The CDC would consist of a one-story, 38,000-square foot building, 2.4 acres of paved parking, sidewalks, and internal driveways. Two locations for the CDC are considered: the Pence Gate site and the 21<sup>st</sup> Street site. The Pence Gate site is the Army's preferred site due to its proximity to the Fort Belvoir Community Hospital, which is the primary expected user of the CDC. The DEQ coordinated review concludes that should the Army choose the Pence Gate site for construction of the CDC, an on-site delineation of lands analogous to Chesapeake Bay Resource Protection Areas (RPA)(this may require the submission of a perennial flow determination) will be required for review by Department of Conservation and Recreation's (DCR) Division of Chesapeake Bay Local Assistance. Should the 21<sup>st</sup> Street site be chosen, DCR's Division of Natural Heritage recommends the Army mitigate potential impacts to the adjacent Area T-17 Ravine Conservation Site which contains the Northern Virginia well amphipod. Fairfax County also prefers the 21<sup>st</sup> Street location due to fewer potential impacts to natural resources. Under federal consistency, DEQ concurs that development of the 21<sup>st</sup> Street site is consistent with the enforceable policies of the Virginia Coastal Zone Management Program. However, DEQ conditionally concurs with construction at the Pence Gate site, provided potential impacts to the RPA are avoided. If the RPA is affected at Pence Gate and the project is inconsistent with the requirements of Chesapeake Bay Preservation Act, then the conditional concurrence would become an objection under federal consistency regulations.

Pentagon Emergency Response Center - DEQ completed the coordinated review of a Draft Environmental Assessment (EA) submitted by the U.S. Department of Defense (DOD) for the construction of Pentagon Emergency Response Center in Arlington County. The facility would provide work space for 54 personnel associated with the three divisions of the Pentagon Force Protection Agency (PFPA). The proposal includes the construction of a two-story steel building in the southeastern corner of the Pentagon Reservation on what is currently a 15,000 square-foot gravel lot. A decentralized uninterruptible power supply (UPS) system, including an emergency generator, would also be provided. Supporting facilities will include outside lighting, pavement, parking, sidewalks, and access roads. On behalf of the Commonwealth, DEQ finds that the construction and operation of the facility is unlikely to have significant adverse environmental effects. The EA states that there are minimal foreseeable coastal effects associated with the proposal; therefore, a consultation was not necessary to illustrate compliance with the enforceable policies of the Virginia Coastal Zone Management Program (VCP). However, the state's response reminds DOD that activities on federal lands with any reasonably foreseeable coastal effects must be consistent with the VCP. Based on DEQ's review of the EA and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ finds that the proposal is consistent with the VCP provided the DOD obtains all applicable permits and approvals.

Stormwater Drainage Repairs - DEQ completed the Commonwealth's review of a federal consistency determination submitted by the U.S. Department of the Navy (Navy) to rehabilitate the deteriorating Chambers Field stormwater drainage system at Naval Station Norfolk. The rehabilitation requires the removal of all 19,732 linear feet of stormwater drainage piping, drop-inlets and outfall structures. These structures would then be replaced, including the installation of 57 new drop-inlets and 4 additional outfall structures to Masons Creek. In addition, repairs will be made to the existing failing taxiway of Runway 10/28. The repairs will take place only within the limits of existing pavement surfaces. DEQ recommended that the applicant work with the Department of Environmental Quality to obtain a Virginia Water Protection (VWP) permit and modify its existing Virginia Pollutant Discharge Elimination System (VPDES) permit; work with the Department of Historic Resources to ensure compliance with Section 106 of the National Historic Preservation Act; and work with the Department of Conservation and Recreation to ensure compliance with the Chesapeake Bay Preservation Act.

Demolition of Navy Facilities - DEQ completed the Commonwealth's review of a federal consistency determination submitted by the U.S. Department of the Navy (Navy) to demolish eight buildings in Portsmouth

for a total reduction of approximately 40,000 square feet of building area. Seven of the eight buildings are located at Naval Support Activity, Norfolk Naval Shipyard and one building is located at the Shipyard's Scott Center Annex. Based on reviewers' comments, DEQ concurred that the proposal is consistent with the enforceable policies of the Virginia Coastal Zone Management Program. DEQ recommended that the applicant work with the Department of Historic Resources to complete the Memorandum of Agreement on the demolition, as five of the structures are contributing resources to the Norfolk Naval Shipyard Historic District. DEQ also provided recommendations on the abatement of asbestos-containing materials and lead-based paint.

New Lodging Facilities at Fort Lee - DEQ completed the coordinated review of a final environmental assessment (EA) submitted by the U.S. Department of the Army (Army) for the construction of a lodging facility at Fort Lee. This facility would support approximately 8,200 personnel to be added to Fort Lee by 2011 under the Base Realignment and Closure (BRAC) recommendations. Subsequent to the analysis of the draft EA, the Army adopted an updated design for the facility. The updated design is still located on the same 26-acre parcel and accommodates 1,000 rooms, but the structure has been redesigned to 7 stories with a surface parking lot accommodating 610 vehicles. The Commonwealth's response included recommendations that the Army coordinate with DEQ to modify its DEQ-issued Virginia Pollution Discharge Elimination System permits, to continue coordination efforts with the Department of Historic Resources, to ensure protection for state-listed Threatened species, including bald eagles, and to ensure consistency with the Chesapeake Bay Preservation Act.

Outfall 058 Re-Establish Flow – DEQ completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the U.S. Navy (Navy) for the removal of sand at stormwater outfall 058 at Naval Station Norfolk in the City of Norfolk. Outfall 058 is located on the northern shore of the installation, discharges to Willoughby Bay, and is being blocked and filled in with accumulated sand. The outfall blockage is causing flooding and standing water to accumulate on the installation during and after rain events. The Navy proposes to remove accumulated sand in front of the outfall until a long-term solution can be implemented. Sand accumulates quickly at the outfall. Therefore, several sand removal events may be required until the problem can be permanently addressed. Based on DEQ's review of the FCD and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ finds that the proposal is consistent with the VCP provided the Navy obtains all applicable permits and approvals for any impacts to subaqueous lands, wetlands, erosion and sediment control, stormwater management, air emissions, and Chesapeake Bay Preservation Area impacts. Solid and hazardous waste generation and disposal requirements may also apply.

## **II. Residual Category**

*The following consistency determinations were submitted as a residual category of Subpart C pursuant to the federal consistency regulation 15 CFR 930.31(c).*

Evergreens at Bethel – DEQ completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the Department of Housing and Urban Development for the proposed Evergreens at Bethel, a HUD Section 221(d)(4), Multifamily Rental Housing for Moderate-Income Families project. The project will consist of the construction of six multi-family residential structures on approximately 13.8 acres of land located at 4358 Greenwood Drive in the City of Portsmouth. The property currently consists of eighteen one-story multifamily apartment structures which were constructed in 1960 and are scheduled to be demolished prior to the construction of the proposed new apartments. Based on DEQ's review of the consistency determination and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ concurs with the FCD that the proposal is consistent with the enforceable policies of the Virginia Coastal Zone Management Program provided all applicable permits and approvals are obtained. Applicable permits and approvals may include: a DEQ Certificate to Construct and a Certificate to Operate a sewage collection and conveyance

system; local erosion and sediment control and stormwater management approvals; DEQ-administered requirements for asphalt paving operations; DEQ permits for boilers or fuel-burning equipment; solid waste, hazardous waste, and hazardous materials handling requirements; historic resource requirements, and coordination with the Virginia Department of Transportation and the City of Portsmouth on transportation impacts.

Lakewood Manor Apartments – DEQ completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the Department of Housing and Urban Development for the proposed Lakewood Manor Apartments, a HUD Section 221(d)(4), Multifamily Rental Housing for Moderate-Income Families project in the City of Norfolk. The proposed apartment complex would consist of a two-building, 187-unit multi-family apartment complex. Building A would include 163 units with 41 covered parking spaces and Building B would include 24 units with 26 covered parking spaces. Additional parking would be provided by a paved parking lot. A community pier with approximately seven boat slips would be constructed on Wayne Creek. The 4.92-acre property currently contains a two-story convalescent center, two residential structures, a garage and two sheds. The existing structures will be demolished. During the course of the review it was discovered that the site has lead contamination ranging from 1,000 to 2,000 parts per million and several soil samples taken failed Toxicity Characteristic Leaching Procedure and would be considered a hazardous waste if managed. Furthermore, the DEQ Tidewater Regional Office expressed concern with possible elevated levels of methane gas on site. DEQ-TRO is continuing to investigate these matters to determine any appropriate remediation actions necessary prior to the redevelopment of the site.

Grandy Village – DEQ completed the coordinated review of a Federal Consistency Certification (FCC) submitted by the Norfolk Redevelopment and Housing Authority for the Grandy Village redevelopment proposal located in the City of Norfolk. The proposed redevelopment includes the construction of a new road to connect Wiley Drive to Kimball Terrace, new townhouses, a mid-rise building to serve as a senior center, parking lots, two bio-retention ponds and the demolition of nine existing apartment buildings. Based on the coordinated review of the FCC and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ concurs that the proposal is consistent with the enforceable policies of the Virginia Coastal Zone Management Program provided all applicable permits and approvals are obtained including a Virginia Water Protection Permit. A Certificate to Construct and a Certificate to Operate under the *Sewage Collection and Treatment (SCAT) Regulations* may also be required.

Blenheim Apartment Complex - DEQ completed a coordinated review of a federal consistency determination (FCD) submitted by the U.S. Department of Housing and Urban Development (HUD). HUD is providing mortgage insurance for the construction of Fenwick Manor and Fenwick Chase apartments at Blenheim in the City of Chesapeake. The 288-unit apartment complex (consisting of 25 two- and three-story structures) is proposed for development on nearly 18 forested acres. HUD has determined that the construction will be consistent to the maximum extent practicable with the enforceable policies of the Virginia Coastal Zone Management Program. Based on the review of the FCD and the comments submitted by reviewing agencies, DEQ concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained. DEQ's review includes recommendations to coordinate with the DEQ Tidewater Regional Office (TRO) regarding storage tank and groundwater withdrawal requirements, if applicable, and to notify the Virginia Department of Game and Inland Fisheries if the protected canebrake rattlesnake is observed during construction activities. DEQ TRO also recommends that the property owner further evaluate the potential nuisance of the nearby landfills.

Parkland Gardens Apartment Complex - DEQ completed the Commonwealth's review of a Federal Consistency Determination for residential development in Arlington County. The Department of Housing and Urban Development is processing an application for mortgage insurance to finance the construction of the Parkland Gardens apartment complex which consists of 228 dwelling units in four buildings located on a 6.25-acre site. Additional construction includes parking, a clubhouse and swimming pool. The existing apartment complex

will be demolished. DEQ concurred that the proposal is consistent with the enforceable policies of the Virginia Coastal Zone Management Program. DEQ's response included guidance on the requirements for mitigation of hazardous waste materials, including asbestos and lead-based paint, and indicated that the applicant must work with the county to obtain all erosion and sediment control plan approvals and stormwater management permits.

Payne Street Apartments – OEIR completed the Commonwealth's review of a federal consistency determination for residential development in the City of Alexandria. The U.S. Department of Housing and Urban Development is processing an application for mortgage insurance to finance the construction of the Payne Street apartment complex consisting of one, three-story and one, six-story residential buildings with retail located on the first floor. The two-story warehouse which currently occupies the 2-acre site will be demolished prior to construction of the apartment buildings. Based on comments submitted by reviewers, DEQ concurred that the proposal is consistent with the enforceable policies of Virginia Coastal Zone Management Program. DEQ recommended that the applicant work with the Department of Historic Resources to ensure compliance with Section 106 of the National Historic Preservation Act and provided recommendations on abatement of asbestos-containing materials and lead-based paint.

Independence Place Apartments: OEIR completed the review of a federal consistency determination for the construction of apartments proposed in Prince George County. The U.S. Department of Housing and Urban Development (HUD) is processing an application for mortgage insurance to finance the construction of the Independence Place Apartments under HUD Section 221(d)(4) Multifamily Rental Housing for Moderate-Income Families. Rockhall Funding Corporation will finance the construction of 220 dwelling units in eleven buildings on two separate parcels. Additional construction includes two garage and storage buildings, a parking lot, a leasing center, a swimming pool, basketball and volleyball courts, picnic areas, and stormwater management facilities. The property is approximately 13.5 acres and consists of land that was previously undeveloped. The site is located east of Jefferson Park Road adjacent to the Fort Lee Military Reservation. Based on DEQ's review of HUD's consistency determination and the comments submitted by agencies administering the enforceable policies of the VCP, DEQ concurs that the proposal is consistent with the VCP provided all applicable permits and approvals are obtained.

Towne Place at Greenbrier – DEQ completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the U.S. Department of Housing and Urban Development (HUD) for the construction of the Towne Place at Greenbrier multi-family apartments in the City of Chesapeake. HUD proposes to provide mortgage insurance under the HUD Section 221(d)(4) program to AGM Financial Services, Inc., for the construction. The project site consists of three cleared, undeveloped parcels that are part of an existing mixed-use commercial shopping development of approximately 22.155 acres. The proposed construction will consist of two, four-story multi-family apartment structures containing 215 units and associated surface parking. Based on DEQ's review of the FCD and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ finds that the proposal is consistent with the VCP provided the AGM obtains all applicable permits and approvals for erosion and sediment control, stormwater management, wastewater discharges, and air emissions. The response also includes guidance on solid and hazardous waste generation and disposal.

Beth Shalom Parkside Assisted Living Facility – DEQ completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the U.S. Department of Housing and Urban Development (HUD) for the construction of the Beth Shalom Parkside Assisted Living Facility in Henrico County. HUD proposes to provide mortgage insurance under the HUD Section 232 program to the Lancaster Pollard Mortgage Company for the construction. Beth Shalom Parkside ALF is a proposed 73-unit, 76-bed market-rate assisted living facility that will be part of Beth Shalom Village, an existing continuum of care community. The existing facility consists of a 116-bed nursing home (The Home), a 60-unit, 70-bed ALF (The Gardens), and a 111-unit affordable housing, elderly restricted apartment complex (The Woods). The proposed Parkside ALF will be an addition to the existing ALF (The Gardens) and will be located on a 1.4-acre parcel currently used as a surface

parking lot. Based on DEQ's review of the FCD and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ finds that the proposal is consistent with the VCP provided the developer obtains all applicable permits and approvals for erosion and sediment control, stormwater management, Chesapeake Bay Preservation Area requirements, and air emissions. The response also includes guidance on solid and hazardous waste generation and disposal.

Harbor North Apartments – DEQ completed the coordinated review of a Federal Consistency Determination (FCD) submitted by the U.S. Department of Agriculture Rural Development (USDA-RD) for the rehabilitation of the Harbor North multi-family apartments in the City of Chesapeake. USDA-RD holds the note on the existing apartment complex. The current owner is selling the complex and USDA-RD will continue to hold the note after the transfer of ownership to the Lawson Realty Corporation. The project will combine two apartment complexes containing 120 units each into one apartment complex containing 240 units. Renovations would utilize green building technologies that meet the earth craft certification. Renovations include: the installation of energy star windows, doors, insulation, hot water heaters, and appliances; the replacement of baseboard heat with heat pumps; the modification of 10% of the units to ADA mobility standards; construction of new playgrounds; and landscaping. The project would also include the construction of a 1,262 square foot community center and 574 square foot maintenance office on the property. Based on DEQ's review of the FCD and the comments submitted by agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), DEQ finds that the proposal is consistent with the VCP provided Lawson Realty Corporation obtains all applicable permits and approvals for erosion and sediment control, stormwater management, air emissions, and Chesapeake Bay Preservation Area impacts. Also, compliance with floodplain management and solid and hazardous waste generation and disposal regulations may be required.

### **III. Federal Activities (Permits, Licenses and Approval)**

*These projects were reviewed pursuant to Subpart D of the Consistency Regulations (15 CFR §930.53)*

North Terminal Expansion - DEQ completed the Commonwealth's review of an environmental assessment and federal consistency certification for projects at the Chesapeake Regional Airport in the City of Chesapeake. The projects include the expansion of the existing corporate and t-hangars, construction of a restaurant, installation of an aircraft washing area, and construction of an access road. The projects will be completed in three phases, with all phases projected for completion by 2025. Based on reviewers' comments, DEQ concurs that the proposal is consistent with the enforceable policies of the Virginia Coastal Zone Management Program. The Commonwealth's response recommended that the airport Authority work with the DEQ and the Corps to obtain the appropriate permits for impacts to wetlands, coordinate with the DEQ to obtain a new or modified Virginia Discharge Elimination System permit, conduct surveys on endangered species and submit the results to the Department of Game and Inland Fisheries, and work with the Department of Forestry to develop mitigation measures for impacts on forestlands.

Obstruction Removal at the New Kent County Airport – DEQ completed the coordinated review of a Federal Consistency Certification submitted by New Kent County and its Airport Advisory Commission for obstruction (tree) removal at the airport in New Kent County. The project consists of the removal of trees on approximately 64.7 acres to comply with the Federal Aviation Regulation. As proposed, this action will involve the removal of the trees at ground level while leaving the stumps to minimize ground disturbance. However, in upland areas stump grinding may be included depending on cost. During the course of the review it was determined that the tree removal activities will result in a permanent conversion of forested wetlands to scrub-shrub wetlands. Therefore, DEQ conditionally concurs that the proposal is consistent with the enforceable policies of the Virginia Coastal Zone Management Program based on the airport conducting a wetland delineation confirmed by the U.S. Army Corps of Engineers, and submitting a Joint Permit Application for review by DEQ under the Virginia Water Protection Permit program.



Dam Rehabilitation - DEQ completed a coordinated review of a federal consistency certification submitted by Fairfax County for the rehabilitation of the Woodglen Lake Dam in the Pohick Creek Watershed of Fairfax County. Project sponsors include the U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), and the Northern Virginia Soil and Water Conservation District. The rehabilitation project will include realigning the auxiliary spillway to contain the Probable Maximum Flood (PMF), raising training dikes to contain flood flows, and armoring the spillway with articulated concrete blocks. Reviewers did not identify any significant adverse impacts to resources that cannot be mitigated. The Commonwealth's response recommended that Fairfax County comply with all of the conditions of the §401 certification for the Nationwide Permit #43 issued by the U.S. Army Corps of Engineers and included guidance on the proper use of erosion and sediment control measures.

High-Speed Passenger Rail - DEQ completed the Commonwealth's review of a Tier 1 Draft Environmental Impact Statement (EIS) for the implementation of high-speed passenger rail service within the Richmond to Hampton Roads travel corridor. The Virginia Department of Rail and Public Transportation (DRPT), in cooperation with the Federal Railway Administration (FRA), proposed five alternatives, which include a combination of increased speeds (up to 110 miles per hour) and/or increased train frequencies either along the Peninsula or along the existing Norfolk Southern route of Southside Virginia or both. In addition, existing train stations along the routes would be expanded or new stations would be constructed as necessary. The Tier I Draft EIS was a qualitative analysis of the five alternatives and will guide the DRPT in selecting a preferred alternative which will be presented in greater and more quantitative detail in the follow-up Tier II EIS. All of the twenty state agencies, planning district commissions, and local governments that participated in the review support the proposal to create a high-speed passenger rail service. However, several reviewers identified deficiencies and gaps in the information presented in the Tier I Draft EIS. Accordingly, the Commonwealth's response includes recommendations to address these deficiencies and inaccuracies in the follow-up Tier II EIS. Also, based on reviewers' comments, DEQ requested that specific studies, such as cultural resources and endangered species, be included in the Tier II EIS. The Tier I Draft EIS contains DEQ's federal consistency information package (Draft EIS, Appendix D). However, the document does not contain a consistency certification. Although not required, we recommended that the certification be provided as part of the Tier II Draft EIS concluding the National Environmental Policy Act (NEPA) process. DEQ will coordinate the Commonwealth's review of the Tier II EIS as well as the federal consistency certification required under the Coastal Zone Management Act.

#### **IV. Federal Funds**

Food Bank of the Virginia Peninsula. OEIR completed the review of a federal consistency certification submitted by the City of Hampton. The U.S. Department of Housing and Urban Development is providing funding for the construction of the Foodbank of the Virginia Peninsula. The City of Hampton will construct a new 51,213-square foot warehouse and distribution facility on a 5-acre parcel at 2401 Aluminum Avenue. Associated construction includes parking & stormwater management facilities. The parcel is currently vacant, although it has been developed in the past for both residential and industrial uses. Based on comments submitted by reviewers, DEQ concurs that the proposal is consistent with the Virginia Coastal Zone Management Program.

Andover Place Apartments - OEIR conducted an in-house review of a federal consistency determination for The Mulholland Group's proposal to rehabilitate the Andover Place apartments, a multi-family apartment complex located at 2823 Fairfield Avenue in the City of Richmond and Henrico County. The majority of the proposed renovations are to the interior of the structures. Exterior property improvements include minor landscaping activities, repairing of the existing sidewalks, construction of a leasing office/community center, and the construction of a small playground area with climbing/activity structure. Through the Virginia Housing Development Authority (VHDA), the Virginia Department of Housing and Community Development (DHCD) is providing U.S. Department of Housing and Urban Development (HUD) HOME Tax Credit Assistance

Program (TCAP) funding to The Mulholland Group. HUD is requiring private developers seeking federal stimulus money for projects in Virginia's designated coastal zone to ensure that their projects are consistent with the enforceable policies of the VCP. While Subpart F of the federal consistency regulations do not apply to private recipients VHDA, on behalf of the DHCD, requires recipients of HOME TCAP funds to certify that their proposals are consistent with the VCP in lieu of DHCD providing the certification. At HUD's request, DEQ has agreed to review and respond to HOME TCAP funded private development activities in the state's coastal zone. This agreement is limited to the duration of the HOME TCAP federal stimulus program.

Twin Canal Village Rehabilitation – DEQ completed the coordinated review of a federal consistency document submitted by Atlantic American Partners, LLC for the rehabilitation of the Twin Canal Village multi-family housing development in the City of Virginia Beach. The site contains a total of 300 garden-style and townhouse residential dwelling units situated on 24.83 acres of land. Proposed rehabilitation activities include interior and exterior repairs and upgrades. Exterior property improvements include minor landscaping activities, demolition and filling of an existing swimming pool, and the construction of a 2,600-square foot community building. Through the Virginia Housing Development Authority (VHDA), the Virginia Department of Housing and Community Development (DHCD) is providing U.S. Department of Housing and Urban Development (HUD) HOME Tax Credit Assistance Program (TCAP) funding to the Atlantic American Partners, LLC. While federal consistency reviews do not apply to private recipients indirectly receiving federal grants, VHDA, on behalf of the DHCD, requires recipients of HOME TCAP funds to certify that their proposals are consistent with the Virginia Coastal Program in lieu of DHCD providing the certification. At HUD's request, DEQ has agreed to review and respond to HOME TCAP funded private development activities in the state's coastal zone. This agreement is limited to the duration of the HOME TCAP federal stimulus program.

Orcutt Townhomes III: OEIR completed the review of a Federal Consistency Certification (FCC) submitted by the City of Newport News for the construction of the Orcutt Townhomes III multi-family residential development. Through the Virginia Housing Development Authority, the Virginia Department of Housing and Community Development is providing U.S. Department of Housing and Urban Development HOME Tax Credit Assistance Program (TCAP) stimulus funding to Newport News for the development. Orcutt Townhomes III is a continuance of a redevelopment project started in 2000 with the city's adoption of the Vision 2010 Plan. The multi-family townhouses will be constructed on three vacant grassy lots totaling 1.7 acres that were previously occupied by the Orcutt Homes housing project and two low income apartment buildings. Based on the project described in the FCC, the proposal is consistent with the enforceable policies of the Virginia Coastal Zone Management Program provided all applicable permits or approvals are received by the city prior to construction. The enforceable policies that are likely to apply include nonpoint source pollution control, air pollution control and coastal lands management (i.e. Chesapeake Bay Preservation Act).

## **V. OCS Reviews**

Nothing to report.

## **C. PROGRAM CHANGES**

The Virginia CZM Program held a public comment period from January 22, 2010 to February 16, 2010 on the following seven routine program changes: (1) Fisheries and Habitat of the Tidal Waters, (2) Administration of Game, Inland Fisheries, and Boating, (3) Coastal Primary Sand Dunes and Beaches, (4) Wetlands, (5) Wetlands Mitigation, (6) NPDES Program Clean Water Act Incorporation, and (7) State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution--Clean Air Act Incorporation. The Virginia CZM Program used three methods to distribute the Public Notice on our intent to update our Program:

(1) *The Internet*. The Public Notice and the Request for Concurrence documents were posted on the Virginia Coastal Program web site and the Virginia Town Hall web site (the state's most comprehensive source of information about regulations in Virginia).

(2) *Email*. The public notice was emailed to 32 federal agency contacts listed as Federal Agency Headquarter Contacts on the Federal Consistency Overview page of the NOAA/OCRM website.

(3) *Direct Mailing*. The public notice was mailed, in hard copy, to 92 regional federal agency contacts who propose or review projects within Virginia's Coastal Zone.

On February 12, 2010 the Virginia Department of Transportation (VDOT) provided comments to NOAA expressing their opposition to inclusion of the Routine Program Change Request for Concurrence regarding submission #2, *Administration of Game, Inland Fisheries, and Boating Code of Virginia Title 29.1, Chapters 1, 3, 4, and 5*. Although the intent was simply to update inland fisheries laws, VDOT was concerned that there were additional implications regarding wildlife and endangered species and that the change should constitute a program amendment rather than a routine program change. On February 18, 2010 the Virginia CZM Program submitted a request to NOAA for review and concurrence of the seven Routine Program Change submissions.

Representatives from the Department of Environmental Quality, the Department of Game and Inland Fisheries, the Virginia CZM Program and VDOT met on March 10, 2010 to discuss the issues. Based on VDOT's concerns, however, the Virginia CZM Program sent a letter to NOAA on March 22, 2010 requesting that submission #2 be temporarily withdrawn in order to allow time to more thoroughly clarify the enforceable policies regarding wildlife and endangered species. Virginia also asked NOAA to proceed with their review of submissions 1, 3, 4, 5, 6 and 7. Section 309 grant funds will be used to contract for a more in-depth analysis of the program's original enforceable policies regarding wildlife and endangered species; the ramifications of recodification of Title 29.1, Chapters 1, 3, 4 and 5; and the changes that might occur in permit review procedures when the new laws are incorporated.

NOAA staff have also raised a concern that the Virginia CZM program does not currently have a clear list of its enforceable policies for federal consistency available. The Virginia CZM Program intends to obtain contractual assistance to address this concern in the near future.

## **D. SECTION 312 EVALUATION PROGRESS**

### **1. Coastal Policy Team**

**PROGRAM SUGGESTION:** The Coastal Policy Team should establish a strategic planning effort for the team and the VCZMP. The strategic plan could also set annual objectives and some measurable goals or performance measure criteria to help gauge success.

**RESPONSE:** It seems we already have multiple strategic planning processes in place: 1) Every three years the Coastal Policy Team goes through a process (sometimes associated with our biennial Partners Workshop) to identify a new "focal area" for the small amount of funds (~\$350-500,000 per year) that we have available after our required continuing grants are covered; 2) Every five years the Coastal Policy Team engages in the Section 309 Coastal Needs Assessment & Strategy Development process – a strategic plan for prioritizing and developing new policies; 3) At almost every CPT meeting (2-3 times per year) the group discusses the next priority for incorporating new state laws or regulations into the Virginia CZM Program.

In addition during this semiannual reporting period, the Coastal Policy Team reviewed the Executive Order which continues the Virginia CZM Program through June 30, 2010 and made recommendations to the new Governor to update the EO by including language about new issues (sea level rise and marine spatial planning).

Given the limited resources we have, both in staff time and available dollars, it's not clear that sufficient benefit would derive from adding on yet another strategic planning process. We would like to discuss the need for this further with NOAA in the event that there is some aspect of strategic planning that we are neglecting but do or could have the resources to address.

## **2. Grants Management**

**PROGRAM SUGGESTION:** Prior to development of the application for 2007 grant award funds, the VCZMP should consider ways to diversify match used for the CZMA cooperative agreement and to ensure mechanisms are in place to spend federal funds within the 18-month time frame of the award.

**RESPONSE:** While it is understandable that NOAA would like to see the CZM funds that DEQ retains for its own staff be matched task by task, it is just not realistic to expect in this economic climate that the Commonwealth can afford to allocate new funds to the Virginia CZM Program. Like most states, Virginia has been through several rounds of state budget cuts and more are expected. State revenues have continued to decline. Fortunately the WQIF funds that are used to match DEQ tasks have been maintained and the Commonwealth is actually spending millions more dollars on sewage treatment plant upgrades than are captured as match for our CZM awards. Also in light of Congress' failure to fund the Coastal Nonpoint Program for FY 2010, these sewage treatment plant upgrades funded with matching dollars are one of the only water quality projects the Virginia CZM Program has.

## **3. Water Quality**

**PROGRAM SUGGESTION:** With the 'devolution' of local road planning, operations, and maintenance from the Virginia DOT to the local level, the VCZMP should consider using nonpoint program funding to support targeted assistance for the "Roads, Highways, and Bridges" nonpoint program management measures. The VCZMP and the nonpoint program manager should work to establish priorities for the nonpoint program and identify and develop for implementation some projects for whenever and whatever funding becomes available.

**RESPONSE:** In the event that funding for special initiatives for the water quality and non-point source program become available, the Virginia CZM Program will work closely with the Coastal Non-point Manager to identify opportunities for targeted assistance to local governments for the "Roads, Highways, and Bridges" nonpoint program management measures." To date, Virginia CZM has received only non-discretionary funds during years 2006, 2008 and 2009 to support Coastal Non-point Management and to develop and establish a Coastal Networked Education for Municipal Officials (NEMO) program in Virginia. Through this support, Virginia CZM works with the Coastal Non-point Manager to prioritize non-point program activities and identify additional opportunities to expand and enhance the efforts of Coastal NEMO. Congress has appropriated no Coastal Nonpoint funds for FY 2010.

## **4. Coastal Hazards**

**PROGRAM SUGGESTION:** The VCZMP and its Commonwealth, regional, and local community partners should consider development of a coastal community resiliency initiative through existing partnerships and programs (e.g., SAMPS, directed technical assistance) as a further means to address coastal hazards. Existing research data and results and recent development of infrastructure (i.e., data layers and geospatial information) such as Coastal GEMS could be translated and disseminated through training programs and workshops for local government decision-makers as part of this effort.

RESPONSE: Virginia has used the concept of focal areas since 1999 in order to concentrate financial and policy efforts on a particular resource or geographic region for a three-year period. The current focal area, Sustainable Community Planning, was chosen after extensive input from partner agencies at the 2007 Coastal Partners Workshop and through discussions of the Coastal Policy Team. As a result, Virginia CZM resources, including staff time and grants, are being directed at state agencies and coastal planning district commissions to help coastal localities plan for adaptation to climate change and to protect blue and green infrastructure. Both of these topics, but especially climate change adaptation, address the NOAA suggestion for a community resiliency initiative. Coastal GEMS is an important component of this initiative, and a number of local government training sessions have been conducted by Virginia CZM staff (see Suggestion 6).

## **5. Federal Consistency**

PROGRAM SUGGESTION: The Coastal Policy Team should consider using federal consistency as a tool for identifying opportunities to review state policies or influencing new state policy based upon new situations presented in federal consistency determinations.

RESPONSE: Starting in July 2008, the Environmental Impact Review Program Manager began discussions with Stephanie Altman and Jim McElfish of the Environmental Law Institute regarding the strengths and weaknesses of the enforceable policies of the Virginia CZM Program. For example, the fisheries enforceable policy administered by VRMC is only used if a subaqueous permit is required. Adding the State T & E species legislation was recommended. At the September 30 Coastal Policy Team meeting DGIF and DCR Natural Heritage both supported the concept however, VDOT had reservations about incorporating those state laws. The EIR Program Manager also asked ELI to evaluate other policies addressing coastal uses such as recreational fishing and boating, public access, use of public beaches to determine if they could be added as new enforceable policies. DCR's public access expert thought that there wasn't the necessary legislative support to do this and ELI did not believe they could be used. Discussions will continue and CZM staff would like to discuss the concept further with NOAA/OCRM staff to ensure that the suggestion is being fully pursued.

## **6. Public Participation and Outreach**

PROGRAM SUGGESTION: The Virginia Coastal Zone Management Program should evaluate the numerous educational and outreach markets it serves and consider a stronger focus on the local and coastal decision-makers. The planning district commissions, Sea Grant, the Chesapeake Bay-Virginia NERR Coastal Training Program, and the federal staff of the Chesapeake NEMO program could provide coordination and assistance.

RESPONSE: In early 2008, Virginia CZM released an improved version of Coastal GEMS. Since that time, numerous data layers have been developed and added to GEMS to make the system even more-user-friendly to planners and to make the connections between land and water resources more visible. For example, several data layers were synthesized to create a single, comprehensive Land Priority Conservation Areas (PCA) dataset which allows PDCs and local planners to use a single layer for comprehensive planning versus the multiple layers previously available. Grants are also underway to identify blue infrastructure or Estuarine Priority Conservation Areas which will be added to Coastal GEMS as they are completed.

Virginia CZM staff provides training on the use of this and other layers in GEMS to regional and local planners and decision-makers. Virginia CZM hosted a workshop to unveil the PCA data layer and to demonstrate how this layer can be used in CommunityViz software which then allows planners to analyze impacts on priority conservation areas given different zoning scenarios (use of this software was piloted by Northampton County through a Virginia CZM grant).

Virginia CZM's "focal area" during the fiscal years 2008, 2009 and 2010 is "Sustainable Communities: Protecting Blue-Green Infrastructure and Adapting to Climate Change." Representatives from each of Virginia's eight coastal planning district commissions helped refine this "focal area" during the 2007 Coastal Partners Workshop where the need for more education for local planners and decision-makers was identified as a high priority. Community planning occurs at the local government level and "focal area" grants to the coastal PDCs will continue to be the most effective and efficient means for the Virginia CZM Program to provide education and training to local planners and officials. The PDCs are coordinating with Virginia NEMO and a grant to Virginia NEMO at the Department of Conservation and Recreation is helping to provide direct technical assistance to those localities requesting it. The focal area projects should result in better informed local planning staff and decision-makers and better protection and management of important coastal resources through adoption of local plans and ordinances.

Since Virginia's coastal planning district commissions are in an excellent position to provide local planners and officials regularly scheduled training on coastal resource management issues through their quarterly meetings, Virginia CZM has asked each coastal PDC to provide four training opportunities each year as a deliverable of their technical assistance funding. These trainings, on topics related to Virginia CZM goals and initiatives, have been ongoing for the last few years and are generally well attended across the eight coastal PDCs.

Virginia CZM staff has taken advantage of several opportunities to improve coordination with our NOAA "sister" programs, CBNERRS and Sea Grant. Most recently, Virginia CZM staff participated in Virginia Sea Grant strategic planning sessions and Virginia CZM and CBNERRS staff held a "collaboration meeting." The Director of Virginia Sea Grant and Manager of CBNERRS are members of the Coastal Policy Team and Virginia CZM staff serve on the CBNERRS Coastal Training Steering Committee. These are all important venues for identifying common goals, priorities and programs. The Coastal Training Program at CBNERRS recently provided a climate change training session for local government staff and officials, supporting Virginia CZM's focal area effort. Virginia CZM has invited both Sea Grant and CBNERRS to co-host the 2010 Virginia Coastal Partners Workshop.